



Town of Duxbury Massachusetts Planning Board

Approved 02/25/2013

TOWN CLERK

13 FEB 27 PM 12:56

DUXBURY, MASS.

Minutes 01/14/13

The Planning Board met at the Duxbury Town Hall, Small Conference Room, on Monday, January 14, 2013 at 7:00 PM.

Present: George Wadsworth, Chairman; Cynthia Ladd Fiorini, Clerk; John Bear, and Scott Casagrande.

Absent: Brian Glennon, Vice Chairman; Josh Cutler, and 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

No items were brought forward for Open Forum.

MINOR MODIFICATION OF DEFINITIVE SUBDIVISION: INGALL'S GROVE, OFF BAY ROAD / MCCRYSTAL

Present for the discussion were the property owners, Mr. and Mrs. McCrystal, and their representative, Mr. Paul Brogna of Seacoast Engineering. Also present was an abutter to the property, Mr. Glenn Brodie of 331 Bay Road. Ms. Ladd Fiorini disclosed that she is friends with the Brodies. No one objected to her participation in the discussion.

Mr. Brogna referenced his letter to the Board dated January 7, 2013 which states that the property owners do not intend to file a modification to the Definitive Subdivision because the proposed drainage is sufficient to keep stormwater runoff within the property. He submitted a revised subdivision plan dated January 14, 2013 that shows a new drainage trench just inside the McCrystal's property line. Mr. Brogna stated that even without the new drain, there has been no puddling despite 6.25 inches of rain in December. Mr. Brogna reported that Mr. Wadsworth had met with Mr. Brogna and the McCrystals at their property on December 11, 2012 during a heavy rain and they observed no runoff onto the abutting property. Mr. Brogna submitted photographs showing minor erosion that ends at the property line.

Mr. Wadsworth confirmed that he was present on that date and that he noted significant runoff from the existing driveway that produced a bit of damage to the grass and also some runoff from the roof of the dwelling. Mr. Brogna explained that the low point of the turnaround area of the driveway allows water to infiltrate into the ground. Mr. Wadsworth continued that although he observed runoff up to the property line he saw no evidence of runoff beyond the wooded area that marks the property line.

Mr. Brodie asked if there was any ice in December, noting that if there is ice followed by rain, water will most likely run off onto his property. Mr. Wadsworth agreed to review the situation again in March or April, which will also allow time for the grass to grow back in the eroded areas of the McCrystal lawn.

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Mr. Brodie asked where water from the new drain will go, and Mr. Brogna responded that it will drain into a stone trench on the property that goes approximately four feet vertically in depth and eventually down to the aquifer. Mr. Brogna stated that the drain will be able to handle many gallons of water.

Mr. Brodie stated that the abutting property never used to slope onto his property because there used to be a hill in between, but during construction of the McCrystal dwelling there was significant grading. He stated that the property is at a higher elevation than shown on As-Built plans. Mr. Broadrick noted that grading issues outside of the roadway layout are outside the Planning Board's jurisdiction and would be a zoning enforcement issue. He noted that the Zoning Enforcement Officer, Mr. Scott Lambiase, stated during a previous site visit that water needs to stay on the property.

Mr. Wadsworth directed Mr. Brodie to notify Mr. Broadrick if he ever observes water draining improperly onto his property. Mr. Broadrick noted that a minor modification plan will need to be approved by the Planning Board but should wait until at least March for the small swale to be installed. Mr. Wadsworth confirmed that he would have no objection to the installation of the new swale prior to approving the minor modification.

Mr. McCrystal asked if he could contact the Planning Director if he has issues with stormwater runoff from Mr. Brodie's property draining onto his property, and Mr. Wadsworth confirmed that he could.

Mr. Broadrick informed Mr. Brodie that a new fence is shown on the revised plan submitted at tonight's meeting, and the property owners have indicated at previous meetings that they intend to install a new fence. Fences of six feet or less are not regulated by the town. Mr. Broadrick emphasized that the "no cut" area depicted on the plan should not be disturbed so the property owners cannot cut any trees down for fence installation.

DISCUSSION WITH OPEN SPACE COMMITTEE: TREE BYLAW

Present for the discussion were Mr. Paul Costello, Chairman of the Open Space Committee, and Ms. Lorrie Hall, member of the Open Space Committee. Board members reviewed materials submitted by Ms. Hall regarding tree bylaws in other towns. Mr. Costello pointed out that the Wellesley bylaw in particular is a good example of a tree bylaw, where diameter and height determine if a permit is required to remove a tree.

Ms. Hall stated that there are many reasons to justify a tree bylaw in Duxbury, noting that a major one is, "How do you want the town to look and feel?" She stated that trees give the town value. She stated that a good amount of clearcutting appears to be happening that is destroying the rural character of the town. She noted that Wellesley has four triggers: 1) building size, 2) retaining walls, 3) vacant lots, 4) increase of footprint by 50% or more. She noted that Wellesley has larger lot size and setback requirements. She stated that viewsheds are of particular importance in Duxbury so it may be a consideration. She recommended that the Duxbury regulations could use zoning setbacks and have an 8-inch minimum rather than 10-inch minimum.

Mr. Bear noted that many homes on the east side of town were constructed prior to zoning regulations so many lots are considered pre-existing nonconforming. Any definitions would need to match existing Zoning Bylaws, and septic would need to be considered as well. He noted that sometimes it is easier to clear all vegetation for construction. Mr. Broadrick added that current septic regulations require designs with leaching trenches.

Mr. Wadsworth noted that certain land would not be applicable to a tree bylaw, including a new subdivision, land under the Wetlands Protection Act, and public shade trees. Each of these situations has its own unique regulations. He also cautioned Mr. Costello and Ms. Hall that residents may have an issue with a bylaw that might prevent someone from building on their own property.

Ms. Hall stated that a tree bylaw would only pertain to cutting within setbacks. Mr. Costello suggested that Duxbury could start a tree farm to replace trees on public roads that come down. He stated that it is not the committee's intent to take away all property rights.

Ms. Ladd Fiorini stated that it is a great idea to do something like this in Duxbury. She asked what the Open Space Committee had in mind. Mr. Costello responded that the Open Space Committee would undertake the project and then submit a draft document for Planning Board review and comment. He suggested that it would help if one Planning Board member could participate in the initial document drafting because the Board is familiar with Zoning Bylaws. Ms. Ladd Fiorini noted that Mr. Glennon, who was not present, is a Board representative on the Open Space Committee. Mr. Broadrick offered to attend a future Open Space Committee meeting followed by a Planning Board work session. He stated that it is important to establish setbacks. He noted that although buffers have been established through the subdivision process, a tree bylaw would pertain only to individual lots.

Mr. Bear recommended that the Open Space Committee members identify the problem they are attempting to fix. He noted that a tree clearing bylaw already exists; would the Open Space Committee propose to change the minimum amount of clearing that would trigger the bylaw? Currently, proposals to clear 30,000 square feet or greater would require a permit. He noted that if the Open Space Committee wants to "keep things the way they were," they should remember that there were no trees on Powder Point in the 1800s. He stated that they should clarify whether they want to preserve trees or preserve buffers because there is a big difference. He referenced the previous discussion about neighborhood differences regarding drainage, noting that bylaws and plans cannot make good neighbors. He cautioned that it is very difficult to create a bylaw that would address all situations. He stated that he believes they may be most concerned with buffers.

Mr. Casagrande stated that he called town officials in Wellesley to ask about the tree bylaw and was told that it is mainly a retaining wall issue. He stated that the Wellesley bylaw would not address Duxbury issues. He said that once a homeowner obtains an occupancy permit he or she can cut down any tree on a property. A tree bylaw may slow down some cutting but may not prevent it.

Mr. Costello noted that the town of Duxbury is not built out yet like Wellesley is, so there may be an opportunity to save trees while possible. He agreed to contact Mr. Broadrick to attend a future meeting, tentatively the third Tuesday in March.

Mr. Bear thanked Ms. Hall for her research, noting that with reasonable expectations it may be possible to create a tree bylaw that can work.

ZBA REFERRAL FOR AMENDMENT TO COMPREHENSIVE PERMIT: WEBSTER POINT VILLAGE, 0 TREMONT STREET / DELPHIC ASSOCIATES

No one was present to represent this proposed amendment to an approved comprehensive permit by revising plans dated May 2008. Mr. Broadrick reported that Mr. Jon Witten of 156 Duck Hill Road, an abutter to the proposed development, had supplied him with some correspondence related to engineering project review. Mr. Thomas Houston of Professional Services Corporation (PSC) in Foxboro had submitted a letter dated November 6, 2012 to the Zoning Board of Appeals (ZBA) on behalf of the Duck Hill Neighborhood Association pointing out discrepancies between approved plans and the revised plans. Mr. Witten also supplied a letter dated December 1, 2012 from the ZBA consulting engineer, Mr. Thomas Sexton of Haley and Ward, Inc. responding to a ZBA request to review the issues raised in the PSC letter. In that letter Mr. Sexton agreed that there were some inconsistencies between the approved plan and the revised plan.

Mr. Wadsworth suggested that the Board should reference the Haley and Ward, Inc. letter in its recommendation to the ZBA.

MOTION: Ms. Ladd Fiorini made a motion, and Mr. Bear provided a second, to urge the Zoning Board of Appeals to request that the applicants bring into compliance those issues raised in a letter dated December 1, 2012 from Thomas C. Sexton, P.E. of Haley and Ward, Inc. to the Zoning Board of Appeals regarding ZBA Case #2012-0011, an amendment to the Webster Point Village / Delphic Associates comprehensive permit to revise approved plans dated May 2008.

VOTE: The motion carried unanimously, 4-0.

ZBA REFERRAL: 6 PRISCILLA LANE / O'SULLIVAN & DUNN

Board members reviewed application materials for this special permit to construct a 460-foot addition to a pre-existing nonconforming dwelling on a .26-acre lot using the "three percent" rule.

MOTION: Ms. Ladd made a motion, and Mr. Bear provided a second, to defer judgment to the Zoning Board of Appeals regarding ZBA case #2012-0012, a proposed special permit to construct a 460-foot addition to a pre-existing nonconforming dwelling.

VOTE: The motion carried unanimously, 4-0.

OTHER BUSINESS

Meeting Minutes:

MOTION: Ms. Ladd Fiorini made a motion, and Mr. Casagrande provided a second, to approve meeting minutes of November 26, 2012 and December 10, 2012 as written.

VOTE: The motion carried unanimously, 4-0.

ADJOURNMENT OF OPEN SESSION

The Open Session of the Planning Board meeting adjourned at 8:53 PM so that the Board could enter Executive Session. The next Planning Board meeting will take place on Monday, January 28, 2013 at 7:00 PM at the Duxbury Town Hall.

MATERIALS REVIEWED

MINOR MODIFICATION OF DEFINITIVE SUBDIVISION: INGALL'S GROVE, OFF BAY ROAD / MCCRYSTAL

- Draft PB minutes of 11/26/12
- Letter from P. Brogna dated 01/07/13

DISCUSSION WITH OPEN SPACE COMMITTEE: TREE BYLAW

- Letter from L. Hall to G. Wadsworth dated 11/19/12 with attachments

ZBA REFERRAL FOR AMENDMENT TO COMPREHENSIVE PERMIT: WEBSTER POINT VILLAGE.

- ZBA application and materials submitted on 12/19/12

ZBA REFERRAL: 6 PRISCILLA LANE / O'SULLIVAN & DUNN

- ZBA referral materials submitted 12/12/12
- Vision GIS map, aerial photo and property card; and Pictometry orthophoto

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OTHER BUSINESS

- Meeting minutes of 11/26/12
- Meeting minutes of 12/10/12 (*Open Session*)
- Draft Annual Town Meeting & Special Town Meeting warrants dated 12/19/12
- ZBRC Final Report dated 12/05/12
- ZBA Decision re: 205 Powder Point Avenue / Brennan
- Construction Cost Estimates for December 2012
- "Want an Affordable Home?..." *Boston Business Journal* article from 11/28/12

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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.