



# Town of Duxbury Massachusetts Planning Board

Approved 03/25/13

TOWN CLERK  
13 APR -1 AM 10:57  
DUXBURY, MASS.

## Minutes 02/25/13

The Planning Board met at the Duxbury Town Hall, Small Conference Room, on Monday, February 25, 2013 at 7:00 PM.

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

Absent: John Bear and Jennifer Turcotte.

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

Mr. Wadsworth called the meeting to order at 7:05 PM.

### OPEN FORUM

Affordable Care Act Information Session: Mr. Cutler, who also serves as State Representative, announced that he has arranged for an expert on the federal health care reform act to speak at the Senior Center on Wednesday, February 27, 2013 at 7:00 PM.

Open Space Webinar: Ms. Ladd Fiorini reported that she participated in this recent webinar and would like to discuss it at a future Board meeting.

Tree Bylaw: Mr. Glennon reported that the Open Space Committee is discussing this potential bylaw in order to preserve more trees and is considering whether to create a new bylaw or to incorporate new regulations into the existing Zoning Bylaw on Land Clearing and Grading.

Citizen Planner Training Collaborative: Mr. Broadrick reminded Board members of this Planning and Zoning Conference that will take place on Saturday, March 16, 2013 in Worcester, MA. He advised Board members that they should let the Planning Office know by this Friday, March 1, 2013 if anyone is interested in attending. Mr. Broadrick is attending and offered to carpool.

Annual Town Meeting: Mr. Broadrick reported that a motions meeting has been scheduled this week in preparation for Annual Town Meeting on Saturday, March 9, 2013. Mr. Wadsworth reported that the Zoning Bylaw Review Committee will be requesting \$50,000.00 in funding to hire a consultant. Mr. Broadrick noted that this amount may not get the job done but at least it is a start.

### DISCUSSION: 21 CHESTNUT STREET / GRIFFIN

Present for the discussion were the property owner's representatives, Mr. Mark Casey of South Shore Survey, and Atty. Paul Driscoll. Mr. Casey stated that the property owner, Mr. Kevin Griffin, could not attend due to medical issues.

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Mr. Casey reported that Condition #27 of the Planning Board's Administrative Site Plan Review (ASPR) decision for this project dated August 21, 2006 states that "future modification of the existing garage to another use other than storage may require additional parking spaces and/or require a new filing as determined by the Building Inspector." On November 27, 2012 the Zoning Board of Appeals (ZBA) issued a special permit to allow a change in use of the existing one-story garage and storage area to allow it to be razed and a new accessory structure to be constructed that would have a garage and storage on the first floor and office space on the second floor. Parking would increase from eight spaces (including two spaces in the garage) to twelve spaces.

Mr. Broadrick noted that ASPR Condition #28 is especially pertinent to tonight's discussion: "Any proposal to to...add additional parking spaces...shall require the property owner to return to the Planning Board for consultation. If determined by the Planning Board to be a substantial modification, a new submission...may be required."

Mr. Casey presented the plan dated October 10, 2012 that was approved by the ZBA, noting that the footprint of the accessory structure will be changing from 756 square feet to 1,252 square feet. No new impervious surfaces are proposed because two new parking spaces will be installed using a gravel turnout. Stormwater management has been improved to capture all recharge rather than running onto an abutting property as it previously did. Mr. Casey stated that the ZBA determined that the proposed number of parking spaces is adequate. The new plan also remedies a setback issue and there are no other zoning issues.

Mr. Glennon questioned the number of existing and proposed parking spaces, and Mr. Casey replied that the additional parking was approved by the ZBA. A discussion ensued regarding the number of existing and proposed parking spaces. Mr. Glennon pointed out that the Board is trying to determine whether the addition of parking spaces constitutes a substantial modification. He stated that it is helpful to know what is being done and how it will impact the surrounding areas. He noted that it is good that a ten-foot buffer has been maintained to an adjacent property that is zoned Residential Compatibility.

Mr. Wadsworth noted that the property owner is nearly doubling the number of parking spaces, although impervious surfaces are not being added. He asked what would be the impact of the additional parking spaces. Mr. Casey responded that there may be an increase in the number of vehicles coming into work and then leaving work at the end of the day. No retail operations are proposed. Mr. Driscoll added that there may be an occasional sales meeting where more vehicles are parked.

Mr. Wadsworth polled Board members to find out if they deemed the proposal "substantial." Mr. Cutler stated that he would "err on the side of 'not substantial.'" Mr. Casagrande said that he would not consider it substantial based on reviewing the ZBA referral materials and taking parking into account and noting that runoff is not a factor anymore. Ms. Ladd Fiorini agreed that the proposal is not substantial for ASPR purposes. Mr. Glennon stated that although he is not completely in agreement that it is not substantial, additional parking on gravel is better than on an impervious surface. He stated that based on the conditions of the original ASPR he would say that it is a substantial modification but understands that the Board members are going in a different direction. Mr. Wadsworth summarized that clearly there is no support for the Board to require an ASPR modification.

Mr. Casey pointed out that a previous setback of 5.8 feet has been remedied to a 21.4-foot setback.

**MOTION:** Mr. Cutler made a motion, and Mr. Casagrande provided a second, that the reconfiguration and additional parking spaces approved in a Zoning Board of Appeals decision for 21 Chestnut Street / Griffin dated November 26, 2012 are not a substantial modification and therefore do not require a modification of an Administrative Site Plan Review decision dated August 21, 2006.

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

**PROJECT ELIGIBILITY REVIEW FOR COMPREHENSIVE PERMIT: 56 & 70 BOW STREET / REINHALTER**

Mr. Broadrick provided some background for this project, noting that in 2010 the applicant filed a Subdivision/RCC preliminary application and the Board determined that a six-lot Residential Compatibility Cluster subdivision could be developed. Now the same applicant has filed for project eligibility through MassHousing to develop the land into a 24-unit 40B development. Mr. Broadrick noted that the Board can choose to not comment or can choose to do a full-blown review. Comments would go to the Board of Selectmen for a letter that will be sent to both MassHousing and the Department of Housing and Community Development. He noted that Mr. Scott Lambiase, Director of Municipal Services, will be composing the letter on behalf of the Board of Selectmen. Comments were due by today; however, Mr. Lambiase was granted an extension of the due date because a snowstorm prevented the Planning Board from meeting on February 11, 2013.

Mr. Wadsworth stated that his major concerns are parking and Title 5. Mr. Cutler agreed with the traffic concern, noting that the area is already very busy. Mr. Broadrick reported that for Title 5 purposes, individual septic tanks would feed into a common leaching field.

Mr. Glennon stated that because MassHousing is looking for a response from the Board of Selectmen, he recommended that Mr. Broadrick should be authorized to work with Mr. Lambiase to incorporate planning issues because there is not enough time for the Planning Board to review the proposal and comment.

Mr. Wadsworth recommended that Mr. Broadrick pass on a Planning Board comment that the proposal would be a "big tax loser" for the town because of the number of units that are proposed in a location near the school complex. This is a beautiful property that abuts town forests, walking trails and wetlands, and it would be unfortunate to see it "sliced and diced" into a densely-built 24-unit development. Ms. Ladd Fiorini agreed, noting that to take this beautiful property and "stuff in" 24 houses seems wrong.

Mr. Glennon recommended that Mr. Broadrick include comments from the Planning Board's review of the Residential Conservation Cluster. The property is a great location in town, and developed smartly it could be an asset to the town.

Mr. Wadsworth offered to help Mr. Broadrick calculate the potential tax losses to the town.

Mr. Casagrande stated that the architectural profiles submitted with the applicant's materials look nice.

**MOTION:** Mr. Glennon made a motion, and Mr. Cutler provided a second, to authorize the Planning Director to work with the Director of Municipal Services in his task to compose a letter on behalf of the Board of Selectmen to MassHousing regarding project eligibility for a proposed Comprehensive Permit for 56 & 70 Bow Street / Reinhalter.

**DISCUSSION:** Mr. Wadsworth requested that Mr. Broadrick supply him with a draft of the letter before it is submitted to the Board of Selectmen.

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

**COMPREHENSIVE PLAN UPDATE**

Mr. Broadrick reported that he had completed online training for gathering census data. He proposed to write the entire report and submit it at a later date for the Board's review.

**ZONING REFORM BILL, HOUSE DOCKET #3216**

Mr. Cutler reported that this bill, which he is co-sponsoring as a member of the State House of Representatives, is considered a "consensus bill" because it has over fifty co-sponsors. A hearing date has been set to move it forward. Mr. Broadrick noted that it is impressive that the bill is gaining support, noting that it is long-overdue and professional planners are thrilled that it is finally gaining widespread support. Board members reviewed a letter of support to Rep. Cutler drafted by staff.

**MOTION:** Mr. Glennon made a motion, and Ms. Ladd Fiorini provided a second, for the Planning Board to enthusiastically support the Zoning Reform Bill, House Docket #3216, and to send letters to the state legislative delegation as drafted.

**DISCUSSION:** Ms. Ladd Fiorini asked if separate letters should be mailed to each legislator. The draft letter was addressed to Rep. Cutler and copied to the other state legislators. Mr. Broadrick suggested that the Town Manager and Duxbury Board of Selectmen should be copied as well.

**AMENDMENT TO MOTION:** Mr. Glennon amended his own motion, and Ms. Ladd Fiorini agreed to the amendment, to clarify that Mr. Cutler should be mailed the letter of support as drafted with the addition of the Town Manager and Board of Selectmen, and that the other state legislators should be mailed letters addressed to each legislator with the substantial form of the letter to Rep. Cutler.

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

**ZBA REFERRAL: 57 DELORENZO DRIVE / COONAN**

Board members reviewed application materials for this special permit to add an accessory apartment to an existing dwelling. Mr. Wadsworth noted that this may be the first application of the Accessory Apartment zoning bylaw. Mr. Glennon pointed out that the special permit application date of February 5, 2013 appears to have been submitted prior to the one-year minimum since the Certificate of Occupancy for the addition is dated February 22, 2012. Mr. Broadrick pointed out that the referral letter to the applicant was sent on December 5, 2012. Board members decided that although it was a slightly premature application, the one-year timeframe has now passed.

Mr. Glennon noted that the plan submitted with the ZBA referral materials shows an 832 square-foot addition with a 54 square-foot covered farmer's porch. He noted that if the porch is included in area calculations, then it would slightly exceed the 850 square feet maximum accessory apartment size. Mr. Broadrick noted that because the farmer's porch has a roof it should count toward area calculations.

**MOTION:** Mr. Glennon made a motion, and Ms. Ladd Fiorini provided a second, to comment to the Zoning Board of Appeals regarding a special permit proposal to construct an accessory apartment to an existing dwelling at 57 Delorenzo Drive / Coonan, that if the 54 square-foot covered farmer's porch is included in the area calculation, then the accessory apartment size exceeds the 850 square feet allowed.

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

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**ZBA REFERRAL: 9 SURFSIDE WEST / LEAHY & NICHOLS**

Board members reviewed application materials for this special permit to raze a dwelling on a pre-existing nonconforming lot of 10,445 square feet and to construct a new dwelling which encroaches on a side setback. Mr. Wadsworth noted that the gross floor area increases by 78 percent and it is not within the side setbacks. Mr. Glennon stated that a proposal to construct a dwelling from the ground up should comply with current zoning regulations. Ms. Ladd Fiorini noted that the existing dwelling was considered a "summer cottage" on the demolition permit, and it is clearly no longer a summer cottage. She also noted that the owner listed on the demo permit is not the special permit applicant.

Mr. Wadsworth stated that septic systems in this area feed into the Bay Road shared septic system which has a limited number of bedrooms. An increase in bedrooms may be a possible violation. He stated that it should be included in the Board's referral recommendation that the applicants must consult with the sewer commissioners.

Ms. Ladd Fiorini noted that the demolition permit was issued in order to perform major structural work. She asked if the structure would be elevated, and Mr. Broadrick replied that it is and that the applicants have filed with the Conservation Commission.

Mr. Glennon noted that looking at the aerial photograph supplied with packet materials, the original structure has a relatively small footprint and 1 ½ stories. From plans submitted it appears that the volume would increase nearly three times, from 11,000 cubic feet to 30,000 cubic feet. A 2 ½ story dwelling on the waterfront is an imposing structure and seems out of scale with the neighborhood. He suggested that the Zoning Board of Appeals (ZBA) justification that a proposal is "not substantially more detrimental" needs scrutiny. He stated that it is a beautiful building but suggested that the ZBA should consider where it is going along with the increase in volume and height.

Ms. Ladd Fiorini added that there appear to be setback violations and razing the structure should require that it be constructed to meet current zoning.

Mr. Broadrick asked if the "three percent" rule is a factor, and Mr. Casagrande noted that the applicants propose to remove an existing garage. Mr. Glennon stated that given the lot size, it reminds him of Salisbury, MA where large houses are squeezed in small lots along the shoreline.

**MOTION:** Mr. Glennon made a motion, and Ms. Ladd Fiorini provided a second, to provide the following comments to the Zoning Board of Appeals regarding a special permit proposal at 9 Surfside West / Leahy & Nichols:

- It appears that the volume of the proposed structure is increasing from 11,000 to 30,000 cubic feet. In view of the significant increase in volume and height of the proposed structure on an undersized lot, the applicants need to justify and the Zoning Board of Appeals needs to scrutinize why the project is not substantially more detrimental.
- Because the existing structure will be demolished, new construction should meet current zoning for setbacks.
- The Water & Sewer Commissioners must be consulted regarding the proposed septic system because an increase in bedrooms is proposed and a limited number of bedrooms is allowed for the Bay Road shared septic system.

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

**ZBA REFERRAL: 2 PHEASANT HILL LANE / WIENERS**

Board members reviewed application materials for this special permit to install an in-ground pool on a property that is located in the Wetlands Protection Overlay District (WPOD). Mr. Wadsworth noted that the WPOD is shown on the plan submitted, which also shows an abandoned drainage easement that runs straight through the pool. Mr. Broadrick noted that the stamped plan should provide verification that the easement has been abandoned. Mr. Glennon noted that the existing leaching field appears to be higher in elevation than the proposed pool. Mr. Wadsworth noted that this is a Board of Health issue. Mr. Wadsworth noted that accessory structures in the WPOD are allowed by special permit. Mr. Broadrick noted that it must meet certain criteria, citing those criteria from the Zoning Bylaws Section 404.9.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Cutler provided a second, to recommend APPROVAL to the Zoning Board of Appeals regarding 2 Pheasant Hill / Wieners, a special permit application to construct an in-ground pool on a property that is located in the Wetlands Protection Overlay District, noting an easement running directly over the proposed pool as shown on the plan dated October 10, 2012 that was submitted with the application.

**VOTE:** The motion carried 4-1, with Mr. Glennon voting against.

**CONSIDERATION OF CHANGING PLANNING BOARD MEETING DAY FROM MONDAY TO WEDNESDAY**

Mr. Broadrick reported that the PAC-TV staff is happy to accommodate the Planning Board in the Mural Room on a night when the Board of Selectmen is not meeting. PAC-TV does not have enough staff available to record two meetings on a Monday night, when the Board of Selectmen and Planning Board currently meet. He recognized that Board members were elected with the understanding that meetings take place on Monday night but if they wish to broadcast their meetings another night must be considered.

Mr. Wadsworth asked Board members if they could attend meetings on a Wednesday night. Ms. Ladd Fiorini responded that she could do it but would prefer not to due to a family commitment. Mr. Casagrande stated that he would not be able to attend approximately one-third of meetings on a Wednesday night.

Ms. Ladd Fiorini asked if the Board really wants to broadcast its meetings on local cable, and Mr. Wadsworth and Mr. Glennon responded "yes" and Ms. Ladd Fiorini and Mr. Casagrande responded "no." Mr. Wadsworth concluded that since Mr. Bear and Ms. Turcotte were not present at tonight's meeting, staff should consult with them to determine whether or not broadcasting of Board meetings should be pursued.

**DISCUSSION: ZONING BYLAW REWRITE**

Mr. Wadsworth stated that he is considering speaking at Annual Town Meeting in support of a proposed warrant article that would appropriate funding to hire a consultant to update Zoning Bylaws in order to resolve inconsistencies. He invited other Board members to speak if they wanted, also. Mr. Glennon asked to whom the consultant would report, and Mr. Wadsworth replied that the consultant would report to the Board of Selectmen.

**BRAINSTORMING: PLANNING PROPOSALS FOR ANNUAL TOWN MEETING 2014**

Mr. Broadrick noted that a looming issue is zoning for medical marijuana in light of its approval at November 2012 state elections. He stated that he will be attending a Citizen Planner Training Collaborative session on this topic on March 16 and stated that he is prepared to speak at Annual Town Meeting if asked.

## OTHER BUSINESS

### Meeting Minutes:

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Casagrande provided a second, to approve meeting minutes of January 14, 2013 as amended.

**VOTE:** The motion carried 3-0-2, with Mr. Glennon and Mr. Cutler abstaining.

Letter regarding Duxbury Estates, off Summer Street: Board members reviewed correspondence dated January 18, 2013 from Mr. Tom Giacchetto to the Zoning Board of Appeals (ZBA) requesting to meet with them regarding a proposal to convert the existing "fees-in-lieu" arrangement for this Planned Development to a traditional construction of affordable units due to market conditions. To date \$135,000.00 of fees have been paid and nineteen permits have been issued, with the next payment due with the 22<sup>nd</sup> building permit request.

After brief discussion Board members agreed that the Inclusionary Payment Schedule signed by Mr. Giacchetto on October 1, 2007 should not be removed. They directed Mr. Broadrick to relay this opinion to Mr. Scott Lambiase, Director of Municipal Services. Mr. Broadrick has requested that Mr. Lambiase alert him when the developers are scheduled to meet with the ZBA because Planning Board members may want to attend.

Chapter 61 Land off Temple Street: Board members reviewed a letter dated February 1, 2013 from Atty. John McCluskey to the Board of Selectmen regarding a "Notice of Intent to Sell and/or Convert Land Taxed Under M.G.L. Ch. 61A" on a 12,756 square-foot portion of land near 705 Temple Street currently owned by the Merry Realty Trust. The Planning Board was copied on this letter in order to provide its recommendation to the Board of Selectmen. Mr. Broadrick reported that the Conservation Commission voted not to pursue town purchase of this land. Board members agreed by consensus also to recommend that the town not pursue purchasing this land by right of first refusal, and directed staff to send a memorandum to the Board of Selectmen reflecting this recommendation.

## ADJOURNMENT

The Planning Board meeting adjourned at 9:27 PM. The next Planning Board meeting will take place on Monday, March 25, 2013 at 7:00 PM at the Duxbury Town Hall.

## MATERIALS REVIEWED

### DISCUSSION: 21 CHESTNUT STREET / GRIFFIN

- ASPR decision dated 08/21/06
- Original ASPR As-Built plan approved by PB 07/14/08
- ZBA decision dated 11/27/12
- Vision GIS map, aerial photo and property card, and Pictometry orthophoto

### PROJECT ELIGIBILITY REVIEW FOR COMPREHENSIVE PERMIT: 56 & 70 BOW STREET / REINHALTER

- Mass Housing letter and application to BOS dated 01/25/13 (*Table of Contents only*)
- Site Plan dated 01/07/13 submitted with project eligibility application
- LHP letter of support dated 07/12/12 (*FYI*)

### ZONING REFORM BILL, HOUSE DOCKET #3216

- Summary of Zoning Reform Bill
- Draft letter from PB to Rep. Cutler dated 02/12/13

### ZBA REFERRAL: 57 DELORENZO DRIVE / COONAN

- ZBA application and materials submitted 01/08/13
- CO for addition
- Vision GIS map, aerial photo and property card, and Pictometry orthophoto
- ZBL Section 410.6

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PLANNING BOARD MINUTES

Date: February 25, 2013

Page 8 of 8

Approved 03/25/13

TOWN CLERK

13 APR -1 AM 10:57

DUXBURY, MASS.

ZBA REFERRAL: 9 SURFSIDE WEST / LEAHY & NICHOLS

- ZBA application and materials submitted 01/7/13
- Vision GIS map, aerial photo and property card, and Pictometry orthophoto

ZBA REFERRAL: 2 PHEASANT HILL LANE / WIENERS

- ZBA application and materials submitted 02/07/13
- Vision GIS map, aerial photo and property card

CONSIDERATION OF CHANGING PLANNING BOARD MEETING DAY FROM MONDAY TO WEDNESDAY

- Town Calendar for Wednesdays in 2012

OTHER BUSINESS

- Meeting minutes of 01/14/13
- Letter from T. Giachetto to ZBA dated 01/23/13
- Duxbury Estates Inclusionary Payment Schedule dated 10/01/07
- Letter from J. McCluskey to BOS dated 02/01/13 re: Notice of Intent to Sell and/or Convert Land Under MGL Ch. 61A
- ZBA decision re: Village at Duxbury
- ZBA decision re: 267 King Caesar Road / Mutkoski
- Construction Cost Estimates for January 2013

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