



Town of Duxbury Massachusetts Planning Board

Approved 08/26/2013

TOWN CLERK
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DUXBURY, MASS.

Minutes 06/24/13

The Planning Board met at the Duxbury Town Hall, Small Conference Room, on Monday, June 24, 2013 at 7:00 PM.

Present: George Wadsworth, Chairman; Brian Glennon, Vice Chairman; John Bear, Scott Casagrande, and David Utti.

Absent: Cynthia Ladd Fiorini, Clerk; and Jennifer Turcotte.

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

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

OPEN FORUM

Community Preservation Committee: Mr. Glennon reported that Ms. Patricia Loring has resigned as the Open Space Committee representative to the Community Preservation Committee (CPC). The Open Space Committee has recommended that the Board of Selectmen appoint Ms. Kathy Palmer to represent the Open Space Committee on the CPC.

Planning Board Meeting Schedule: Mr. Broadrick noted that due to staff vacations the Planning Board schedule may need to be re-arranged. Board members decided to cancel meetings scheduled for July 8 and July 22, and to meet on Monday, July 29, 2013 instead.

APPOINTMENT: MS. AMY MACNAB REGARDING NSTAR TREE CLEARING

Ms. Amy MacNab, former Planning Board member, had requested time to speak to the Board regarding tree hearings. Ms. MacNab distributed copies of the town's Scenic Road general bylaw (Bylaw 7.6) and MGL Chapter 40, Section 15C (Scenic Road Designations). She noted that Mr. Peter Buttkus, DPW Director and Tree Warden, has worked with NSTAR in recent years when there is a tree that needs to be removed because it is dead and/or causes a safety hazard. She stated that NSTAR may have taken advantage of this good working relationship by removing some trees that are not dead or hazardous. She provided an example of Chestnut Street where she said that trees have been hacked in the course of trimming and taking down trees.

Now NSTAR is proposing to clear cut trees within their easements on residential properties near NSTAR transmission lines. Ms. MacNab stated that she attended meetings that the town held to inform the public about these proposed clearings. She reported that when the Board of Selectmen asked NSTAR to hold off or mitigate the clear-cutting, NSTAR said no. After working with the town for years, she stated that it appears that NSTAR is no longer working in concert with the town. She requested that the Board bring this issue to Mr. Buttkus' attention and take control over scenic tree hearings once again.

Mr. Broadrick noted that NSTAR's proposed clearing within easements is not under the Planning Board jurisdiction. Ms. MacNab stated that it appears that trees are getting cut down along scenic roads that should

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not be cut. Mr. Casagrande stated that it is sometimes surprising that trees that look like they are within the scenic road layout actually are not. Ms. MacNab stated that the intent is to protect the trees and there is a process with protection mechanisms built in. Mr. Glennon noted that the Planning Board did hold a joint tree hearing with the Tree Warden last year, adding that the Planning Board can only act on applications that come before them.

Mr. Bear noted that at his residence he has signed two letters consenting to tree removal within the past couple of years, and NSTAR ended up cutting down a different tree than he had approved. He agreed that the Planning Board should stay on top of tree clearings that should require a hearing.

Mr. Wadsworth noted that after several severe storms during the recent years, the Board of Selectmen has given NSTAR representatives permission to be more aggressive in post-storm clearing. Ms. MacNab noted that the Planning Board has a role in the process and urged members to get more involved. Mr. Wadsworth invited Ms. MacNab to attend a tree hearing to be held on July 29, 2013 for NSTAR tree clearing along scenic ways throughout the town where public ways cross transmission lines.

ZBA SPECIAL PERMIT AMENDMENT REFERRAL: 104 TREMONT STREET / WIEMEYER

No one was present to represent this application to amend a special permit to extend the hours of operation and to add a use for group fitness training. Mr. Broadrick noted that the project originally went through the special permit process and Administrative Site Plan Review in 2005. The current business hours are from 7:00 AM to 8:00 PM, and the current owner proposes to expand the business hours to 5:00 AM to 9:00 PM. The owner proposes to offer fitness training in the basement during those extended hours.

Mr. Bear noted that new activity will increase intensity of use. Currently some office space in the upstairs is not rented out, so what will happen when the building is fully leased? Mr. Wadsworth noted that there is an overlap between the current medical facilities that open at 7:00 AM and the fitness training that lasts until 8:00 AM. Mr. Broadrick noted that there would be an increased impact to traffic and parking, and there is an increased use not anticipated with the original special permit.

Mr. Casagrande noted that he has observed that there appears to be an abundance of available parking during the proposed additional hours of operation. He also noted that a large section of the building is not occupied. Mr. Uitti noted that the number of parking spaces appears to exceed the number required by Zoning Bylaws. Mr. Broadrick noted that according to the Administrative Site Plan Review decision condition #30, any proposed change would require an amendment. Mr. Uitti questioned whether the proposed use would require additional parking.

Mr. Bear stated that the Planning Board was quite serious about no business activity in the basement at the time of the Administrative Site Plan Review. The original special permit authorized professional/medical offices, and group fitness is outside that scope of use. Mr. Broadrick noted that there is no letter from Mr. Scott Lambiase, Director of Municipal Services, that typically is part of the special permit application which might indicate Mr. Lambiase's opinion on whether the proposed new use fits with the permitted uses.

Mr. Wadsworth noted that the property abuts a residential parcel, and expanded hours may have an impact on current or future residents. Mr. Glennon added that the additional outdoor lighting during the expanded hours may be an issue for abutters, along with increased traffic and noise.

MOTION: Mr. Glennon made a motion, and Mr. Bear provided a second, to note the following concerns with the proposal:

- An increase in use will have an impact on traffic and parking. Currently the upper floors are partially vacant; however, when the building is leased at full capacity there may be a parking shortage similar to the issues recently experienced at the 95 Tremont Street medical office building.
- An overlap of hours for the medical/office use and fitness training from 5:00 PM to 8:00 PM could create a parking shortage. The same is true at 8:00 AM when vehicles arriving prior to an 8:00 AM medical appointment may encounter a parking shortage from vehicles that are using the fitness facilities until 8:00 AM.
- The Administrative Site Plan Review for 104 Tremont Street dated February 1, 2005 requires modification according to Condition #30 which states that, "Future modification of the basement to another use other than mechanical storage that will require additional parking spaces shall require the applicant/property owner to seek a modification to this approved site plan and/or require a new filing as determined by the Building Inspector."
- The proposed use for fitness training appears to be outside the scope of the approved use for medical/professional office space. The Zoning Board of Appeals may wish to seek an opinion from the Director of Municipal Services regarding the appropriateness of the proposed use.
- The site directly abuts a residential property, and expanded hours could adversely affect lighting, traffic and noise to the abutting property.

VOTE: The motion carried unanimously, 5-0.

ZBA SPECIAL PERMIT REFERRAL: 546 WASHINGTON STREET / VAUGHN

Board members reviewed this special permit application to construct a one-story addition to a pre-existing nonconforming structure, encroaching on the Chapel Street front setback. Mr. Glennon commented that he could not help but think how Ruth Rowley, the former owner who passed away but was active in town government while she was alive, would have reacted to this application. He noted that he could see no reason why the addition could not be placed 25 feet back from the setback.

Mr. Uitti noted that the application came before the Historical Commission, on which he also serves, adding that the house is being gutted. He wondered if the addition was placed to provide privacy for the new terrace. Mr. Glennon responded that arborvitae makes a good privacy screen.

Mr. Broadrick noted that the special permit application states that the addition would encroach on a side setback when it actually encroaches on a front setback because the property is on a corner.

Mr. Bear noted that any proposal that the Zoning Bylaws says you cannot do is a nonconformity. Mr. Casagrande noted that Zoning Bylaws do allow an applicant to have an increase in nonconformity but still be approved by going through the special permit process. Mr. Bear stated that if the lot was vacant it would not be allowed, and Mr. Casagrande stated that it is allowed if it is a pre-existing nonconformity. Mr. Broadrick noted that it should not be allowed without a variance. Mr. Glennon noted that the bar appears to be set lower for pre-existing nonconformities. He added that in this particular case it appears that there is a way to place the proposed addition in conformance with Zoning Bylaws. Mr. Casagrande noted that moving the addition outside of the setback may interfere with the septic system.

MOTION: Mr. Glennon made a motion, and Mr. Bear provided a second, to recommend that the Zoning Board of Appeals first ascertain why the proposed addition cannot be placed in compliance with setbacks. If the Zoning Board of Appeals allows the new addition where currently proposed (in the setback), the Planning Board recommends: (a) specific factual findings; and (b) particular references to the Zoning Bylaws to justify such relief.

VOTE: The motion carried unanimously, 5-0.

UPDATE ON COMPREHENSIVE PLAN

Mr. Broadrick reported on the history of master plans in the Town of Duxbury, noting earlier plans dated 1959, 1962, 1969 and 1999. He reported that in 1973 a statement was issued instead of an update. Mr. Broadrick also noted that a Community Development Plan was published in 2004 and an Open Space Plan was published in 2008.

Mr. Broadrick reported that a revised Planned Production Plan is being funded by the Duxbury Affordable Housing Trust, and that document includes all kinds of new data. The Open Space Plan is slated to be updated next year, also. He stated that it would be nice to incorporate all of these new data into an updated Comprehensive Plan. He noted that the "big picture" goal in 1999 was to preserve the semi-rural character of the town and this goal remains.

Mr. Broadrick noted that the build-out analysis in the 1999 Comprehensive Plan projected the worst-case town's population at 27,000 by 2010, a projection that has not come true. He stated that an assumption in 1999 that land owned by nonprofits would not be developed also has not proved true, noting the development of land at Camp Wing on Temple Street and retreat center at the Sisters of Saint Margaret on Harden Hill. He noted that it was assumed that land in the Wetlands Protection Overlay District would not be developed, but now that is changing one property at a time. He noted that although the town still has some values expressed in the Comprehensive Plan we are not living up to all of them.

Mr. Wadsworth asked if Mr. Broadrick expects to focus on enhancing the Comprehensive Plan's executive summary. Mr. Bear asked if the Comprehensive Plan is required to be updated every ten years. Mr. Broadrick responded that there is no mandate from the state although planners generally update them every ten years to coincide with U.S. Census data.

Mr. Wadsworth asked when Mr. Broadrick expects to complete the executive summary, and Mr. Broadrick responded that he expects to have it completed by the end of the year. Mr. Casagrande noted that broad goals will not change.

SIGNATURE PAGE FOR REGISTRY OF DEEDS AND LAND COURT

Board members signed signature pages to be recorded at the Plymouth County Registry of Deeds in Plymouth and Land Court in Boston.

OTHER BUSINESS

Minutes:

MOTION: Mr. Bear made a motion, and Mr. Casagrande provided a second, to approve meeting minutes of June 3, 2013 as amended.

VOTE: The motion carried unanimously, 5-0.

ADJOURNMENT

The Planning Board meeting adjourned at 9:15 PM. The next Planning Board meeting will take place on Monday, July 29, 2013 at 7:00 PM at the Duxbury Senior Center.

MATERIALS REVIEWED

Appointment: Ms. Amy MacNab regarding NStar Tree Clearing

- Letter from NStar to R. MacDonald dated 03/14/13
- Duxbury General Bylaw 7.6 (Scenic Roads) and MGL Chapter 40, Section 15C (*distributed by Ms. MacNab at meeting*)

ZBA Special Permit Amendment Referral: 104 Tremont Street / Wiemeyer

- Special permit referral materials submitted on 06/06/13
- Original ASPR decision dated 02/01/05
- Vision GIS map, aerial photo, Assessor's property card, and Pictometry orthophoto

ZBA Special Permit Referral: 546 Washington Street / Vaughn

- Special permit referral materials submitted on 06/06/13
- Corrected site plan submitted 06/17/13
- Vision GIS map, aerial photo, Assessor's property card, and Pictometry orthophoto

Other Business

- Meeting minutes of 06/03/13
- Planning Board Contact List dated 06/05/13
- Construction Cost Estimates for May 2013

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