



Town of Duxbury Massachusetts Planning Board

TOWN CLERK

14 JAN 15 PM 1:34
DUXBURY, MASS.

Minutes 12/09/13

The Planning Board met on Monday, December 9, 2013 at 7:00 PM at the Duxbury Town Hall, Small Conference Room.

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

Absent: No one was absent.

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

Mr. Wadsworth called the meeting to order at 7:04 PM.

OPEN FORUM

Economic Advisory Committee (EAC): Mr. Bear reported that the EAC signed a letter of support for a Town Meeting zoning article proposing a moratorium on medical marijuana dispensaries.

Water Advisory: Mr. Wadsworth reported that the state is decreasing municipal water limits in order to force communities to meet non-scientific objectives to increase stream flows. He stated that this will become a political issue, and he is meeting with Rep. Josh Cutler this week and will plan to speak with the Board of Selectmen and other groups. He stated that this is a serious situation, with a 24 percent reduction required for the town of Duxbury. Mr. Glennon observed that these requirements may lead to an increase in the number of private wells.

Town Meeting Warrant Articles: Mr. Broadrick reported that the Planning Board will hold a public hearing on January 13, 2014 for only one zoning article, a proposed moratorium on medical marijuana facilities. He reported that adoption of FEMA Flood Maps will be postponed until 2015 because FEMA has alerted him that the Flood Maps will not be ready for adoption.

Planned Production Plan: Mr. Broadrick reported that the Duxbury Affordable Housing Trust will present an updated Planned Production Plan at the Board of Selectmen meeting on January 27, 2014 in the Mural Room. The Planning Board will be expected to attend and, along with the Board of Selectmen, will be required to vote to adopt the Planned Production Plan.

Duxbury Estates Planned Development, off Summer Street: Mr. Broadrick reminded Board members that the special permit amendment public hearing is scheduled for Thursday, December 12, 2013 for the applicant's request to reconfigure dwelling unit types and to replace the existing Fee-in-Lieu of Affordable Housing schedule with a provision of affordable housing. He noted that the Duxbury Affordable Housing Trust is in support of the Planning Board's recommendation not to change the Fee-in-Lieu schedule.

878 Tremont Street, Duxbury, MA 02332; Telephone: 781-934-1100 x 5476; Fax: 781-934-1137

ANR PLAN OF LAND: 50 RAILROAD AVENUE & 114 ALDEN STREET / 50 RR AVE DUX LLC & WISBACH

Present for the discussion to represent the application was Mr. Freeman Boynton of Duxbury Construction LLC. He explained that the owner of 114 Alden Street, Ms. Mary Wisbach, would like to upgrade her septic system and a new leaching field would need to be a substantial mound. Instead she is trying to blend her septic mound into an existing mound for the DuxPlex facility at 50 Railroad Avenue, but a land swap is required to accomplish this. A total of 2,639 square feet is proposed to be swapped and no frontage is affected.

Mr. Broadrick confirmed that S&G Associates has sold 50 Railroad Avenue to 50 RR AVE DUX, LLC and its trustee, Atty. Matthew Walsh. Mr. Glennon noted that the owner is listed in error on the plan in one of the notations. Mr. Broadrick offered that the engineer can change the mylar in the Planning Office.

MOTION: Ms. Ladd Fiorini made a motion, and Ms. Turcotte provided a second, to approve a Plan of Land entitled, "Plan of Land on Alden Street and Railroad Avenue in Duxbury, Massachusetts," dated November 27, 2013, scale 1" = 50', drawn by Duxbury Construction, LLC, P.O. Box 2514, Duxbury, MA 02331, signed and stamped by Sheldon Robert Phinney, PLS, on December 2, 2013, one sheet, conditioned upon the name of the current owner of 50 Railroad Avenue being corrected on a side notation on the plan.

DISCUSSION: Mr. Glennon asked if there is any opportunity for the residential property to gain frontage through the land swap, and Mr. Boynton responded that although the use is residential, the property at 114 Alden Street is zoned Neighborhood Business I, so both properties are zoned for business.

VOTE: The motion carried unanimously, 7-0.

Board members signed the mylar and Mr. Broadrick instructed Mr. Boynton to invite the engineer to come to the Planning Office to correct the mylar.

ZBA SPECIAL PERMIT REFERRAL: 56 MASSASOIT ROAD / WILKINSON.

Board members reviewed this special permit application to raze a pre-existing nonconforming garage and to construct a new one in the same footprint with a second floor addition that would tie into the existing second floor of the dwelling. Mr. Wadsworth noted that both the existing and proposed garage practically sit on the lot line.

Mr. Bear questioned a potential front setback violation as well, and Mr. Broadrick responded that Mr. Scott Lambiase, Director of Municipal Services, did not comment on a front setback violation in his referral letter.

Mr. Glennon asked when the existing garage was built, noting that it would have to be built prior to the adoption of the applicable zoning provision which it now violates in order to be considered pre-existing nonconforming. He stated that the garage looks like it is constructed in a style of the 1970s. Mr. Broadrick noted that the Assessor's property card lists the Actual Year Built as 1901 but it is not clear if that date refers to the dwelling or the attached garage. He offered to look into whether a demolition delay permit has been submitted for razing the garage. Mr. Glennon suggested that the applicant should be required to demonstrate that the garage existed at that location prior to setback requirements that render it nonconforming.

Mr. Wadsworth noted that it is optimal to get structures away from each other for fire safety. Buildings that are close together with an increase in mass will increase the risk of fire spreading. He stated that the application should be denied on that basis. Mr. Casagrande noted that the existing structure is situated below grade to the

abutter. Mr. Wadsworth agreed that below-grade structures may pose less of a fire safety risk, but the special permit would extend the height of the garage. Mr. Bear noted that the narrative submitted with the application states that the proposed height is "below the treeline," not noticeably higher than the existing house.

Mr. Broadrick noted that while these issues may be important, they are not planning issues. Mr. Bear suggested that the Board could defer judgment to the Zoning Board of Appeals, pointing out these potential issues.

MOTION: Ms. Ladd Fiorini made a motion, and Ms. Turcotte provided a second, to DEFER JUDGMENT to the Zoning Board of Appeals regarding Special Permit #2013-0018, 56 Massasoit Road / Wilkinson, noting the following:

- The Planning Board recommends that the Zoning Board of Appeals verify when the existing garage was originally constructed to determine whether the project should be referred to the Historic Commission for a demolition delay finding per ZBL Section 609.2 (Demolition of Historically Significant Buildings, Definitions).
- The Planning Board notes that there will be an increased fire safety hazard due to proximity of the structure in relation to the dwelling on the adjacent lot, where a fire in one structure could easily spread to the adjacent one and the sideline setback does not exist. The current structure is below grade.

VOTE: The motion carried, 6-1, with Mr. Glennon voting against.

ZBA SPECIAL PERMIT REFERRAL: 0 RIVER LANE / LAWSON

Board members reviewed this special permit application to replace two existing 6' x 10' floats at the end of an existing pier with one new 10' x 20' float, an increase of 80 square feet. Mr. Wadsworth noted that this appears to be a lot with an accessory structure and no principal structure. Mr. Broadrick responded that this was the original case that caused the Zoning Bylaw to be amended so that from then on, a lot with an accessory structure must have a principal structure associated with it. Town Counsel at the time, Atty. Robert Troy, was of the opinion that it had not been enforced before but should be enforced. Mr. Broadrick stated that residents were concerned at the time with a number of piers lining up along the shoreline and therefore adopted the zoning bylaw along with a Scenic Overlay District and a pier bylaw as preventive measures.

Mr. Broadrick stated that in this case, the applicant is proposing to get rid of two smaller floats and to replace them with one larger float. Mr. Wadsworth noted that the Bluefish River is a sensitive area.

Mr. Bear noted that the plan presented is not an As-Built plan of the dock as it exists. Ms. Turcotte noted that the Chapter 91 license needs to match the plan, and therefore the plan submitted does show existing conditions.

MOTION: Ms. Ladd Fiorini made a motion, and Mr. Glennon provided a second, to DEFER JUDGMENT to the Zoning Board of Appeals regarding Special Permit #2014-0002, 0 River Lane / Lawson with no comment.

VOTE: The motion carried unanimously, 7-0.

TOWN CLERK
JAN 15 PM 1:35
DUXBURY, MASS.

ZBA SPECIAL PERMIT REFERRAL: 257 GURNET ROAD / DEADY

Board members reviewed this special permit application to create an owner-occupied bed & breakfast in an existing single-family dwelling. Mr. Broadrick noted that bed & breakfast operations are guided by Zoning Bylaw Section 410.3.8 (Uses and Structures Permitted by Special Permit) and are permitted only within the existing footprint of the dwelling, as is the case with this application.

Mr. Broadrick showed Board members that the shaded portion of the plan is where the proposed Bed & Breakfast would be, noting that it has two kitchens already and the owner space was recently enclosed.

Mr. Glennon noted that in a deed for the property there is a specific restriction against using the dwelling for anything other than a dwelling for one family. There is also a deed restriction against any commercial signage. Mr. Wadsworth suggested that the Planning Board take a position of leadership and recommend denial of the special permit. Ms. Turcotte and Mr. Casagrande disagreed, with Mr. Casagrande noting that the applicant is following the Zoning Bylaws by applying for a special permit and the structure will remain a single family dwelling.

Mr. Broadrick noted that the Zoning Enforcement Officer may not be able to enforce a deed restriction. He stated that not all special permits run with the land like variances and deed restrictions do. Mr. Glennon noted that the deed restrictions may only be enforceable by the abutters through legal action.

MOTION: Ms. Ladd Fiorini made a motion, and Ms. Turcotte provided a second, to DEFER JUDGMENT to the Zoning Board of Appeals regarding Special Permit #2014-003 257 Gurnet Road / Deady, noting two deed restrictions on a deed for this property recorded with the Land Court at the Plymouth County Registry of Deeds as Land Court Certificate #21554:

- Parcel XIV, Section A: "No buildings shall be erected or placed on the premises except single-family dwelling houses...for the use and occupancy of one family only as a residence or dwelling house, and the granted premises shall be used for no other purposes whatsoever."
- Parcel XIV, Section B: "No signboards for commercial advertising shall ever be placed or permitted on said premises."

VOTE: The motion carried unanimously, 7-0.

OTHER BUSINESSMinutes:

MOTION: Ms. Ladd Fiorini made a motion, and Mr. Casagrande provided a second, to approve meeting minutes of November 25, 2013 as amended.

VOTE: The motion carried 6-0-1, with Ms. Turcotte abstaining.

Engineering Invoices:

MOTION: Ms. Ladd Fiorini made a motion, and Mr. Bear provided a second, to approve the following Amory Engineers invoices:

- Invoice #14031A dated November 15, 2013 in the amount of \$240.00 for services related to Fisher Ridge Residential Conservation Cluster.
- Invoice #14031B dated November 15, 2013 in the amount of \$1,080.00 for services related to Cape Verde Terrace Definitive Subdivision.

TOWN CLERK
14 JAN 15 PM 1:35
DUXBURY MASS.

DISCUSSION: Mr. Glennon questioned the discrepancy between arrival/departure time on the inspection reports and time spent on time sheets. Board members agreed that the discrepancies of up to fifteen minutes could be time spent reviewing plans or waiting for other parties to meet on the site.

VOTE: The motion carried unanimously, 7-0.

Staff distributed an invoice received that day from Horsley Witten Group. Board members reviewed the invoice.

MOTION: Mr. Glennon made a motion, and Ms. Turcotte provided a second, to return Horsley Witten invoice #33887 dated December 2, 2013 in the amount of \$806.25 for services related to MacFarlane Farms Definitive Subdivision for additional information accounting for time spent.

DISCUSSION: Mr. Glennon noted up to an hour discrepancy between time noted on inspection reports and time reported on time sheets. Mr. Casagrande suggested there could be further breakdown on the time sheet for various tasks. Ms. Turcotte noted that a further breakdown on time sheets could provide a better understanding of how time was spent.

VOTE: The motion carried unanimously, 7-0.

ADJOURNMENT

The Planning Board meeting adjourned at 8:29 PM. The next Planning Board meeting will take place on Monday, January 13, 2014 at 7:00 PM at the Duxbury Town Hall.

MATERIALS REVIEWED

ANR Plan of Land: 50 Railroad Avenue & 114 Alden Street / 50 RR Ave Dux LLC & Wisbach

- ANR application and plans submitted on 12/02/13
- Vision GIS map, aerial photo, Assessor's property card, and Pictometry orthophoto

ZBA Special Permit Referral: 56 Massasoit Road / Wilkinson

- ZBA materials submitted 10/29/13
- Vision GIS map, aerial photo, Assessor's property card, and Pictometry orthophoto

ZBA Special Permit Amendment Referral: 0 River Lane / Lawson

- ZBA materials submitted 11/07/13
- Vision GIS map, aerial photo, Assessor's property card, and Pictometry orthophoto
- Original special permit #96-02 dated 04/24/1996

ZBA Special Permit Referral: 257 Gurnet Road / Deady

- ZBA materials submitted 11/26/13
- Vision GIS map, aerial photo, Assessor's property card, and Pictometry orthophoto
- Land Court Certificate #98057
- Land Court Certificate #21554

Other Business

- Meeting minutes of 11/25/13
- Amory Engineer invoice #14031A dated 11/15/13 re: Fisher Ridge
- Amory Engineer invoice #14031B dated 11/15/13 re: Cape Verde Terrace
- Construction Cost Estimates for November 2013
- Horsley Witten invoice #33887 dated 12/02/13 re: MacFarlane Farms (*distributed at meeting*)

TOWN CLERK
14 JAN 15 PM 1:35
DUXBURY, MASS.