



# Town of Duxbury Massachusetts Planning Board

TOWN CLERK  
14 FEB 11 PM 1:15  
DUXBURY, MASS.

## Minutes 01/13/14

The Planning Board met on Monday, January 13, 2014 at 7:00 PM at the Duxbury Senior Center, Ellison Room, 10 Mayflower Street

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

Absent: 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**

Planned Production Plan: Mr. Broadrick reminded board members 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 vote to adopt the Planned Production Plan.

### **PUBLIC HEARING FOR ANNUAL TOWN MEETING 2014 ZONING ARTICLE: MEDICAL MARIJUANA MORATORIUM**

Mr. Wadsworth opened the public hearing at 7:05 PM. Ms. Ladd Fiorini read the public hearing notice and correspondence list into the public record:

- Article submitted to Board of Selectmen on 11/27/13
- Public hearing notice submitted to Town Clerk on 12/18/13 and published in the *Duxbury Clipper* on 12/25/13, 01/01/13, and 01/08/14
- Planning Board meeting minutes of 08/26/13 and 11/25/13.

Mr. Wadsworth noted that the Planning Board is the sponsor of this proposed medical marijuana moratorium. He asked Mr. Broadrick to provide an overview.

Mr. Broadrick noted that the moratorium until June 30, 2014 buys time for the town to see what is happening in other communities that have later Town Meetings. He noted that the Board of Selectmen or Board of Health could have proposed this moratorium, but instead the Planning Board chose to submit this zoning article. Five dispensaries are allowed per county and so far there are eight applicants within Plymouth County, including in Plymouth, Norwell, Brockton, Middleboro and Bridgewater. Those communities are welcoming medical marijuana dispensaries and have an appropriate area zoned to allow that type of business use.

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

In Duxbury there are nine business nodes and most have a children's use within 500 feet, which would exclude the area from a medical marijuana facility per state Department of Health regulations. Two business areas that might be available are near Osborne's convenience store on Summer Street and in Cox's Corner (corner of Tremont Street and Church Street). There are security issues associated with medical marijuana dispensaries because it is a cash-only business.

Mr. Casagrande stated that Standish Street on Hall's Corner could be a potential site for a medical marijuana dispensary. Mr. Broadrick noted that although that area has a toy store, dance studio and gymnastics studio, it may be feasible to locate a medical marijuana dispensary outside of the 500-foot exclusionary area but within the business zone.

Mr. Bear asked about the logic behind the moratorium expiration date of June 30, 2014. Mr. Broadrick explained that he chose the date to find out the results regarding medical marijuana facilities in other communities' Town Meetings. The latest moratorium expiration date is December 31, 2014 per the Attorney General.

Mr. Casagrande asked about the local vote on the state's referendum on medical marijuana in 2012. Mr. Broadrick reported that the referendum passed in Duxbury by a vote of 5,066 for and 3,734 against. It passed in all precincts. He stated that while residents may agree that medical marijuana may be medically beneficial for certain health conditions, he believes that most residents would not want a medical marijuana dispensary located with the town.

Mr. Casagrande stated that the concept of a medical marijuana moratorium is a good one, to either restrict or zone to prepare in case the state eventually chooses to legalize recreational use of marijuana like Colorado and Washington recently did.

Mr. Bear reported that the Economic Advisory Committee looked at the issue and found that welcoming communities had light industrial areas with retail parking available, and that is where the medical marijuana dispensaries are being proposed.

Mr. Glennon asked what would happen after the moratorium ends, and Mr. Broadrick responded that if someone applied for a medical marijuana facility on July 1, 2014, the town would have to deal with it. Mr. Glennon noted that the purpose of the moratorium is to prepare a Zoning Bylaw. He stated that June will be here soon and expressed concern that it may not be enough time.

Mr. Broadrick stated that he would need to confer with Town Counsel regarding whether the expiration date of the moratorium could be amended on the floor of Annual Town Meeting because it may be viewed as more restrictive. Mr. Glennon stated that he would rather extend the expiration date.

Ms. Ladd Fiorini asked why anyone would be interested in locating a medical marijuana facility in Duxbury when there are at least five other communities that are welcoming them. Mr. Wadsworth stated that most likely someone would not want to locate it in Duxbury. This type of business has a very high upfront cost and a fair volume of traffic would be needed in order to make it economically feasible.

Mr. Glennon asked if accessory uses are anticipated, such as selling cigarettes and other retail items. Mr. Broadrick responded that medical marijuana facilities are highly regulated and are not allowed to sell other retail items. Mr. Casagrande noted that California started with allowing medical marijuana sales only.

Mr. Glennon asked where the term 'treatment center' in the proposed bylaw came from, and Mr. Broadrick responded that it came from zoning bylaws used in other communities. Currently they are referred to as 'medical marijuana repositories.'

Mr. Wadsworth opened the floor to public comment.

Ms. Georgia Blatterman of 45 Carriage Lane stated that the Board of Health has smoking regulations for tobacco and may want to address the proposal for a medical marijuana moratorium. Mr. Wadsworth noted that the Board of Health may wish to propose its own moratorium, but it would not require a zoning article.

Mr. Frank Daly of 47 Carriage Lane asked if purchase of medical marijuana can be restricted to residents only. For example, could a Duxbury resident purchase medical marijuana in Pembroke? Mr. Broadrick responded that there is no restriction to residents only.

Mr. Wadsworth asked if there were any other public comments. There were none.

**MOTION:** Mr. Glennon made a motion, and Ms. Ladd Fiorini provided a second, to close the public hearing regarding an Annual Town Meeting zoning article to add a new Section 617: Temporary Moratorium on Medical Marijuana Treatment Centers.

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

Therefore the public hearing was closed at 7:30 PM. Mr. Bear and Mr. Wadsworth both stated that the article should be left alone for now.

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**ZBA REFERRAL, SPECIAL PERMIT AMENDMENT: DUXBURY ESTATES, OFF SUMMER STREET**

Present for the discussion were the applicants, Mr. Thomas Giacchetto and Mr. Charles Giacchetto. Their representative, Atty. Robert W. Galvin, had notified the Planning Office staff that he would be delayed in arrival due to a scheduling conflict.

Mr. Wadsworth stated that Mr. Broadrick had met with Mr. Thomas Giacchetto; Mr. Wadsworth and Mr. Broadrick had both met with two residents; and Mr. Broadrick had consulted with Town Counsel.

Mr. Broadrick distributed a two-page report outlining the status of the applicant's request to amend its Inclusionary Payment (Fee in Lieu of Affordable Housing) Schedule signed on October 1, 2007. He stated that the applicant want to Modify Fee in Lieu Payment Schedule by one of the following:

- 1) Building total of three affordable units within the development, forfeiting first payment but making no more payments (required to provide total of five units); or
- 2) Building total of three affordable units outside the development, forfeiting first payment but making no more payments (required to provide total of five units); or
- 3) Reducing total payments by fifty percent and paying new amount of \$675,000 at the end of project.

He reported that Town Counsel has advised that construction of affordable units instead of Fee in Lieu could legally be done but it is purely discretionary on the part of the Planning Board and Zoning Board. As far as the Fee in Lieu goes, the dollar value of the Fee in Lieu cannot be changed although the schedule could be adjusted.

Mr. Broadrick stated that building the five affordable units within the development may be difficult as the units need to be interspersed equally amongst the market rate units and cannot be distinguishable from market units. In addition, the current homeowners purchased units knowing that no affordable units would be included within the development. Adding the affordable units may affect marketability at resale.

Mr. Broadrick stated that the affordable units would need to be provided outside the development: two would need to be provided before issuance of the next (22<sup>nd</sup>) building permit because the Zoning Bylaws per Section 560.6 #3 requires five affordable units for the 44-unit development. This means one unit at the 14<sup>th</sup> building permit (30% stage) and one unit at the 22<sup>nd</sup> building permit (50% stage). Subsequent units would be required at the 33<sup>rd</sup> permit (75% stage); another at the 34<sup>th</sup> permit (75% + 1 stage); and the last unit at the 39<sup>th</sup> permit (90% stage).

He stated that right now the applicants owe a payment of \$270,000 and if that is paid they can get twelve more building permits before the next \$270,000 payment is due; or they can build/buy two single family dwellings right now at market price and provide them to someone who can only afford a \$218,000 mortgage, which is someone who qualifies for 70-80% of the Area Median Income (AMI) for the Boston Metropolitan Statistical Area (BMSA).

He noted that single family homes in Duxbury are not selling below \$300,000 at this time but the developer may be able to find some. He stated that it might be more economically advantageous for the applicant to pay the next \$270,000 payment on the Fee in Lieu Agreement rather than spend \$600,000 for two market priced dwellings to sell at \$218,000 apiece.

Mr. Broadrick noted that the formula is based on the median sales price of single family homes over the three fiscal years prior to application for the special permit minus the price of a single family home that a qualified homeowner can afford according to 70-80% of the AMI for Duxbury times the number of required affordable units. This translated in 2006 to  $\$600,000 - \$330,000 \times 5 = \$1.350M$ .

Mr. Broadrick stated that Town Counsel had advised that the total amount of the Fee in Lieu Agreement cannot be changed; however, as a cross check Mr. Broadrick had calculated the formula using today's FY2011-13 numbers. The single family median sales price comes to \$595,000 which is almost the same as the 2006 agreement. Using today's 70-80% of AMI results in a home price of \$218,000. So the formula becomes  $\$595,000 \text{ MINUS } \$218,000 \times 5 = \$1.885M$ .

Using the applicant's sales numbers the formula changes to  $\$492,576 \text{ MINUS } \$218,000 \times 5 = \$1.372M$ . Using condo numbers for multifamily units the formula becomes  $\$492,576 \text{ MINUS } \$170,000 \times 5 = \$1.612M$ . He concluded that the applicant is better off sticking with the original numbers.

Mr. Broadrick noted that since the payment schedule is back loaded the applicants are supposed to pay five payments in lieu of the five units in an agreed upon schedule of one \$135,000 payment; three \$270,000 payments; and one \$405,000 payment for the total of \$1.35M. He suggested that the Board may want to consider amending the payment schedule to spread out smaller payments more frequently, although any change would be up to the Board's discretion.

Mr. Bear emphasized that the total amount of \$1.35 million cannot change. Therefore even if building affordable units, the applicants still would be responsible for paying the fee-in-lieu total. He noted that the Duxbury Affordable Housing Trust is expecting those funds as contracted.

Mr. Wadsworth noted that the applicants had suggested that the town could provide land for them to build affordable housing, stating that the town does not give away land. Per MGL Chapter 30B the town would need to go through a bidding process and also get Town Meeting approval to dispose of land. Mr. Thomas Giacchetto noted that the town has land earmarked for affordable housing and it has been difficult to get housing built there.

Mr. Glennon stated that he would be interested to hear from the applicant why they thought that a fee-in-lieu schedule was a good idea at the time and what has changed now. He stated that it would be helpful to understand the issue in order to reach a solution.

Mr. Thomas Giacchetto stated that the market has completely changed since the project was permitted in 2007. He stated that although the special permit was issued in February 2007, the inclusionary payment was not finalized until October 2007. He stated that at the time he was willing to move forward in good faith. He noted that other developers have removed the 55+ age restriction but they have not. He also noted that they had not gone the 40B route.

Mr. Thomas Giacchetto continued, stating that the bank has called their loan. In order to meet covenants in the loan they had to put up personal collateral. The bank bailed them out but made an arrangement so that every dollar from every sale goes directly to the bank. He stated that the bank wanted them to remove the 55+ age restriction. He stated that they still have a huge site loan to pay off and need relief. He noted that sales are picking up and they want to make the effort to complete the project. They have introduced one-story units which have helped offer a variety of price points. They expect to pay off the loans after the next nine or ten units.

Mr. Casagrande asked if the bank had considered the fee-in-lieu schedule within the structuring of the loan. Mr. Charles Giacchetto responded that each unit has a specific budget, and that is what the loan is based on. He stated that they are trying to get the project built but need help figuring out how to make payments. He stated that after the next nine or ten units are built and sold, then they would be able to pay off the remainder of the \$1.35 million. He noted that after the 30<sup>th</sup> or 31<sup>st</sup> unit is sold, depending on if units are one-story or two-story, the site loan will be paid off.

Mr. Uitti asked if the applicants are looking to adjust the fee schedule and not looking to build affordable units, and Mr. Charles Giacchetto responded that it does not make sense to build affordable units.

Mr. Uitti asked if the Giacchetto LLC was formed just for this project or for other projects too, and Mr. Thomas Giacchetto replied that the LLC was formed for this development only. Mr. Wadsworth asked if By Design Construction is a separate entity, and Mr. Thomas Giacchetto responded, "Yes."

Mr. Thomas Giacchetto stated that his real estate broker ran the formula as listed in ZBL 560.1 and came up with different numbers. He stated that the Housing and Urban Development (HUD) uses 70 percent of income for the Average Median Income (AMI) numbers, and Mr. Broadrick agreed that it was the case.

Mr. Wadsworth noted that the fee-in-lieu payment schedule was agreed prior to the first building permit. He noted that it appears questionable whether the Board can allow changes to the numbers used in 2007 to formulate the payment amount.

Mr. Charles Giacchetto stated that he would like to reserve the right to work with the Planning Director to justify some relief to the payment amount. Mr. Wadsworth responded that he does not see that number moving. Mr. Charles Giacchetto noted that the fee-in-lieu schedule was finalized after they owned the land. Mr. Wadsworth stated that he had reviewed the files from 2007 and saw no urgency on the applicants' part to get a fee schedule in place, nor any alternative schedule offered at the time. Mr. Bear reminded the applicants they took part in a negotiated payment schedule.

Mr. Uitti stated that he is sympathetic to their dilemma; however, with no assets other than the built units, what is to stop the applicants from walking away after the 30<sup>th</sup> unit is built.

The applicants' representative, Atty. Robert W. Galvin, arrived at this point.

Mr. Charles Giacchetto responded to Mr. Uitti's concern, noting that the value of the last 14 units without a loan is tremendous. Ninety percent of proceeds from the next eight to ten units would go to the town. Mr. Uitti pointed out that if the LLC never builds the final 14 units, the existing unit owners would possess the remaining land at that point.

Mr. Wadsworth gave Atty. Galvin the opportunity to speak. Atty. Galvin stated that he had spoken with Atty. Kevin Batt from Town Counsel's office at Anderson & Kreiger. He stated that they had discussed spreading payments out or providing another form of surety, with the ultimate goal of completing the 44-unit project. Mr. Charles Giacchetto added that they are asking the Board to push off payments until the 38<sup>th</sup> or 39<sup>th</sup> unit.

Atty. Galvin stated that he believes that there may be an error in the initial calculations, which may be cause to re-work the numbers. Mr. Wadsworth stated that he has reviewed the calculations and has not found an error. Mr. Bear noted that the Board has to rely on the fact that the applicants agreed to the numbers on the fee-in-lieu agreement that they signed. Mr. Broadrick noted that the original schedule was actually generous to the applicants, using \$600,000 as a median new home sales price when the actual median was \$733,000 in 2004-06. Mr. Charles Giacchetto asked if Atty. Galvin and Mr. Broadrick could get together and come up with a proposed schedule.

Mr. Wadsworth opened the floor to public comment.

Mr. James Sullivan of 13 Carriage Lane noted that the discussion appears to be centered on potentially adjusting the fee-in-lieu schedule with less discussion of other alternatives. He stated his concern that affordable units may be introduced into the development. He stated that he believes that it cannot be done because Zoning Bylaws state that affordable units must be integrated within the development, and the development is already half-built. He stated that current owners bought their units with an understanding that all of the units would be at market value.

Mr. Thomas Nutter of 49 Carriage Lane agreed, noting that affordable housing within the development is not what they bought into. He stated that it behooves the town to protect the residents as current taxpayers. He requested that the Board consider building into the fee schedule some assurance that the development will be completed.

Mr. Wadsworth agreed with earlier comments that it does not make sense to locate affordable units within the development because they would need to be scattered throughout, which would be impossible because 19 market-rate units have already been sold. He stated that the amount the applicants owe to the town cannot be changed. He stated that his concern is that the applicants will walk away from the project. He stated that he does not have any problem with fully paying the amount due with the 80% completion mark but the applicants need to put in some money now. He stated that it would be a great risk for the town to put off the payment schedule.

Mr. Uitti stated that he would like to fully understand the terms of the applicants' current loan with Rockland Trust. He requested documentation of those terms. He stated that he would like to have a better understanding of the applicants' full assets and if they are enough to cover the loan. He noted that assets can be dissipated. He expressed concern that the town has no guarantee that the assets will not go away.

Mr. Wadsworth stated that the applicants need to sit down and come up with potential sources of income and put together a proposal. He stated that he is nervous about back loading any further than the current schedule. He stated that he would like to see upfront earnest money.

Mr. Casagrande asked if the land is owned outright, and Mr. Charles Giacchetto responded that after the loan is paid off it would be owned outright. He stated that after the loan is paid off, all issues raised would be easy to accomplish. Mr. Casagrande noted that the best interest of the current owners is to get the project built to completion. Mr. Charles Giacchetto noted that it is in his best interest also.

Mr. Wadsworth suggested that if the applicants can pay the \$270,000 currently owed according to the fee-in-lieu schedule, then they would be granted twelve more building permits until the next installment is due. During that time the applicant could discuss with the Board how to potentially revise the payment schedule. If the applicants cannot come up with the \$270,000, then they will have to go through a lengthy process. Mr. Thomas Giacchetto noted that the next payment is the reason they are here. Mr. Charles Giacchetto stated that paying the currently owed \$270,000 is not going to happen. Mr. Wadsworth stated that the discussion would need to continue then. He expressed concern that putting off the payment schedule increases the town's liability.

Mr. Uitti stated that the town needs to be comfortable that assets will not disappear. Mr. Thomas Giacchetto stated that they would provide loan documentation to the Board for their due diligence.

Mr. Bear stated that he and Mr. Wadsworth were on the Planning Board when the development was permitted. He stated that it was an excellent development. He stated that he would feel more comfortable in accepting a revised payment schedule if it was discovered that the original formula was in error. He noted that the current schedule is back loaded already, and increasing the back loading puts the town at risk. He noted that the Board is not supposed to take into effect economic factors, only Zoning Bylaws. Mr. Uitti and Mr. Casagrande agreed that the payment schedule is already back loaded.

Mr. Wadsworth stated that a contract is a contract, advising the applicants to make a proposal using their own due diligence. He stated that he looked into it and could not find an error in the calculations used in the original fee-in-lieu schedule. Mr. Bear pointed out that instead of using 'condo' sales, 'multi-family' ownership should be used, according to Zoning Bylaws.

Ms. Susan Rittenour of 4 Carriage Lane asked if there would be any scenario in which the residents would be liable for completing the development. Mr. Glennon advised her that the current owners should consult with their own counsel.

Mr. Glennon stated that Carriage Lane exists due to some type of affordability, according to Zoning Bylaws which the town adopted at Town Meeting. He sympathized with the current owners' concern that the development has not been completed. He expressed concern that if the payments are deferred that the applicants may come back again in the future and ask for a lower fee because they have run out of money. It puts the Board in the position of playing clean up. He stated that no matter what happens not everybody is going to be happy with the outcome. He noted that the goal of the Zoning Bylaws in this case is to provide an element of affordability. Putting the cash component off until later building permits defeated the purpose of why the project was permitted in the first place.

Mr. Glennon continued, asking the current owners to consider if it would really be such a bad scenario to provide affordable housing to those aged 55 and above dispersed among future buildings. He stated that he is not sure that restructuring the payment schedule would be in the best interest of the town as it relates to the intent of the Zoning Bylaws. He stated that he is not sure that affordable units would drag current owners' property values into the ground. He suggested that further discussion needs to take place regarding why the Zoning Bylaw is written the way it is.

Mr. Uitti stated that his understanding is that according to loan documents there is no ability to build affordable units within the development. Mr. Glennon stated that he does not feel constrained to a bank covenant, noting that there are plenty of possibilities for resolving this issue.

Ms. Ladd Fiorini stated that although she is not sure when the loan was created, it seems like the bank has made it impossible for the applicant or the Board to move forward. She stated that the Planning Board represents the town's best interest, and back loading fee payments is not in the town's best interest.

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Mr. Wadsworth noted that he is on the Duxbury Affordable Housing Trust, and older citizens tend to be 'house rich' and therefore would not qualify for affordable housing. It is easier for a young couple to qualify.

Richard Blatterman of 45 Carriage Lane stated that while he is not opposed to affordable housing, the current owners have given the developers money so they could pay the town the fee-in-lieu to cover affordable housing. He stated that he does not understand why the applicants do not have the money to pay the town at this point after selling 20 units. He noted that purchasing a unit was a significant investment for him, too.

Mr. Wadsworth recommended that the applicants consider reducing the profit margin for a certain number of units when they make their proposal to the Board for the next meeting.

Mr. Charles Giacchetto stated that he and his brother are not asking to build affordable units within the development. He stated that he has given his word to current owners that he would not do that. He noted that they are not financially in trouble because they have a lot of equity in the development. He stated that it is merely a timing issue. He stated that they have invested a million dollars in the project, so they are not running away. He stated that they are trying to get the next units built.

Ms. Georgia Blatterman of 45 Carriage Lane stated that the applicants originally agreed to pay \$1.35 million to subsidize five affordable units. She stated that as time goes on it has become clear that the amount is not enough to buy five units. Mr. Wadsworth noted that the fee-in-lieu schedule does not assume an extended timeline. Ms. Blatterman noted that it was a business decision made by the applicants to agree to the payment schedule.

**MOTION:** Mr. Glennon made a motion, and Mr. Casagrande provided a second, to continue the discussion regarding ZBA referral for special permit 2013-0015 Duxbury Estates, Carriage Lane / Giacchetto until January 27, 2014 at 8:00 PM at the Duxbury Senior Center.

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

Mr. Wadsworth advised the public that the Planning Board will start its meeting at Town Hall for a discussion with the Board of Selectmen, and then will continue its meeting at the Senior Center. No discussion on this topic will begin prior to 8:00 PM.

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**REQUEST FOR SURETY AND LOT RELEASE: FISHER RIDGE RESIDENTIAL CONSERVATION CLUSTER, OFF SUMMER STREET / FISHER RIDGE REALTY, LLC**

Present for the discussion was Mr. Stephen Vazza, Manager of Fisher Ridge Realty, LLC. Mr. Broadrick noted that Mr. Vazza has agreed to the performance bond amount of \$40,098 in order to release the lots. He stated that the applicants have selected a surety company. Mr. Vazza stated that from a timing standpoint, they expect to post a cash performance bond.

Mr. Wadsworth noted that there was a substantial difference between the applicant's estimate of \$18,000 and the consulting engineer's estimate of \$40,098. Mr. Broadrick stated that the consulting engineer, Mr. Patrick Brennan of Amory Engineers, provided an itemized cost breakdown, and Mr. Broadrick stated that he is comfortable with the estimate.

Mr. Glennon asked if Mr. Vazza also agreed with the estimate, and Mr. Vazza responded that he would prefer to move on. Mr. Vazza stated that he intends to put up cash for the performance bond.



**MOTION:** Mr. Glennon made a motion, and Ms. Ladd Fiorini provided a second, to approve a cash performance bond in the amount of \$40,098.00 for completion of the road at Fisher Ridge Lane, Fisher Ridge Realty, LLC.

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

**MOTION:** Mr. Casagrande made a motion, and Ms. Ladd Fiorini provided a second, to approve a lot release for Lots 1-4 at Fisher Ridge Residential Conservation Cluster, off Summer Street / Fisher Ridge Realty LLC, upon receipt of a cash performance bond in the amount of \$40,098.00 to be submitted to the Planning Office.

Mr. Broadrick stated that staff will prepare the Lot Release document for the Planning Board to sign. Board members agreed to stop by Town Hall to sign the form when it is ready.

**REQUEST FOR SURETY AND LOT RELEASE: MACFARLANE FARMS DEFINITIVE SUBDIVISION, OFF HIGH STREET / MACFARLANE FARMS REALTY, LLC**

Present for the discussion was Mr. Stephen Vazza, Manager of MacFarlane Farms Realty, LLC. Mr. Broadrick noted that Mr. Justin Lamoureux of Horsley Witten Group in Sandwich, MA had provided a cost estimate of \$19,800.00 to cover completion of outstanding issues related to road construction. Mr. Vazza indicated that he was comfortable with the Horsley Witten estimate.

**MOTION:** Mr. Glennon made a motion, and Ms. Ladd Fiorini provided a second, to approve a cash performance bond in the amount of \$19,800.00 for completion of the road at MacFarlane Farms Lane / McFarlane Farms Realty, LLC.

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

**MOTION:** Mr. Casagrande made a motion, and Ms. Ladd Fiorini provided a second, to approve a lot release for Lots A, B and C at MacFarlane Farms Definitive Subdivision, MacFarlane Farms Realty LLC, upon receipt of a cash performance bond in the amount of \$19,800.00 to be submitted to the Planning Office.

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

Mr. Broadrick stated that staff will prepare the Lot Release document for the Planning Board to sign. Board members agreed to stop by Town Hall to sign the form when it is ready.

**ZBA SPECIAL PERMIT REFERRAL: 341 KING CAESAR ROAD / RODERICK & WALKEY**

Board members reviewed materials submitted for this special permit application to construct a new pier, including access ramp, walkway, platform, gangway and float.

**MOTION:** Mr. Casagrande made a motion, and Mr. Uitti provided a second, to defer judgment to the Zoning Board of Appeals regarding Special Permit #2014-0004, 341 King Caesar Road / Roderick & Walkey.

**DISCUSSION:** Ms. Ladd Fiorini noted that there are not many piers currently located in this area, and Mr. Broadrick noted that the property is not located in the Waterfront Scenic Overlay District so there are no restrictions.

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

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**ZBA SPECIAL PERMIT REFERRAL: 321 KING CAESAR ROAD / RACHWALSKI**

Board members reviewed materials submitted for this special permit application to construct a new pier over the wetlands, including walkway, platform, ramp and float.

**MOTION:** Mr. Glennon made a motion, and Mr. Casagrande provided a second, to defer judgment to the Zoning Board of Appeals regarding Special Permit #2014-0005, 321 King Caesar Road / Rachwalski.

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

**OTHER BUSINESS**

Engineering Invoices:

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

- Invoice #33887 dated December 2, 2013 in the amount of \$806.25 for services related to MacFarlane Farms.
- Invoice #33961 dated December 30, 2013 in the amount of \$981.25 for services related to MacFarlane Farms.

**DISCUSSION:** Mr. Bear asked if the engineer's actual time spent matches the invoice, and Mr. Broadrick replied that it did.

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

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Bear provided a second, to approve Amory Engineers invoice #14043 dated 12/30/13 for services related to Fisher Ridge

**DISCUSSION:** Mr. Glennon asked a question about a field visit on December 11, 2013, and Mr. Broadrick responded to his satisfaction.

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

Minutes:

**MOTION:** Mr. Casagrande made a motion, and Ms. Ladd Fiorini provided a second, to approve meeting minutes of December 9, 2013 as amended.

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

Planning Director Recognition: Board members congratulated Mr. Broadrick for receiving a 2013 Massachusetts Association of Planning Directors' Chapter Award for his work on a tri-town Sea Level Rise Committee that utilized a District Local Technical Assistance grant to study projected sea level rise in 25, 50 and 75 years.

**ADJOURNMENT**

The Planning Board meeting adjourned at 9:56 PM. The next Planning Board meeting will take place on Monday, January 27, 2014 at 7:00 PM at the Duxbury Senior Center.

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## MATERIALS REVIEWED

### Public Hearing for Annual Town Meeting 2014 Zoning Article: Medical Marijuana Moratorium

- Public hearing notice published in *Clipper* on 12/25/13; 01/01/14; and 01/08/14
- Article as printed in draft ATM warrant dated 12/13/13
- PB minutes of 08/26/13 and 11/25/13

### ZBA Referral, Special Permit Amendment: Duxbury Estates, off Summer Street / Giacchetto

- Inclusionary Payment Scheduled signed on 10/01/07 and worksheet
- ZBA special permit amendment decision dated 01/19/10
- Letter from Commerce Bank & Trust to T. Giacchetto dated 07/31/09
- Letter from T. Giacchetto to S. Zoltowski dated 01/18/13
- PB minutes of 02/25/13
- PB minutes of 11/25/13
- PB referral memo to ZBA dated 11/27/13

### Request for Surety and Lot Release: Fisher Ridge Residential Conservation Cluster, off Summer Street / Fisher Ridge Realty, LLC

- Letter from S. Vazza of MacFarlane Farms Realty, LLC dated 12/16/13
- Letter from P. Brennan of Amory Engineers dated 12/26/13
- Email from P. Brennan with revised completion estimate dated 01/03/14
- Special permit decision dated 10/24/12

### Request for Surety and Lot Release: MacFarlane Farms Definitive Subdivision, off High Street / MacFarlane Farms Realty LLC

- Letter from S. Vazza of MacFarlane Farms Realty, LLC dated 12/16/13
- Letter from J. Lamoureux of Horsley Witten Group dated 12/20/13
- Definitive Subdivision decision dated 08/27/10

### ZBA Special Permit Referral: 341 King Caesar Road / Roderick & Walkey

- ZBA materials submitted 12/04/13
- Vision GIS map, aerial photo, Assessor's property card, and Pictometry orthophoto

### ZBA Special Permit Referral: 321 King Caesar Road / Rachwalski

- ZBA materials submitted 12/23/13
- Vision GIS map, aerial photo, Assessor's property card, and Pictometry orthophoto

### Other Business

- HW invoice #33887 dated 12/02/13 re: MacFarlane Farms
- HW invoice #33961 dated 12/30/13 re: MacFarlane Farms
- Amory Engineers invoice #14043 dated 12/30/13 re: Fisher Ridge
- Meeting minutes of 12/09/13
- "Activists Push to Fully Legalize Marijuana" *Cape Cod Times* article dated 11/29/13 (FYI)
- Construction Cost Estimates for December 2013

TOWN CLERK  
14 FEB 11 PM 1:16  
DUXBURY, MASS.

# SIGN IN SHEET

January 13, 2014

Public Hearing:  
2014 Annual Town Meeting Zoning Article  
Re: Medical Marijuana Moratorium

TOWN CLERK  
14 FEB 11 PM 1:16  
DUXBURY, MASS.

Please print your name and address for our records:

Name

Address:

Bob Sodd - agent

WATD-130 Enterprise Dr

Gergin + Rich Blitteman

45 CARRIAGE LANE

Nancy Bursaw

6 Carriage Lane

Jean Lang

Boston Globe - South

Darlene Sowell

12 Carriage Lane

Mary Ann Sowell

12 Carriage Lane

Maureen Gaughan

5 Carriage Lane

Bruce + Susan RITHNOUR

4 carriage Lane

Tom Nutter

49 Carriage Lane

Hazelita Gay

17 CARRIAGE Lane

Karen Nutter

49 Carriage Lane