

Approved 04/27/15



Town of Duxbury Massachusetts Planning Board

TOWN CLERK
15 MAY -1 AM 11:26
DUXBURY, MASS.

Minutes 03/09/15

The Planning Board met on Monday, March 9, 2015 at 7:00 PM at the Alden School, Room 104, 75 Alden Street.

Present: George Wadsworth, Chairman; Brian Glennon, Vice Chairman (remote participation via telephone); Cynthia Ladd Fiorini, Clerk; Scott Casagrande, Jennifer Turcotte, and David Uitti.

Absent: John Bear.

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

Mr. Wadsworth called the meeting to order at 7:05 PM. He announced that Mr. Glennon would be participating remotely via telephone for tonight's meeting due to geographic distance.

OPEN FORUM

Citizen Planner Training Conference (CPTC): Mr. Casagrande reminded Planning Board members that Ms. Judi Barrett, chairman of the Zoning Bylaw Review Committee and member of the Zoning Board of Appeals, will be leading a workshop at this conference on March 21, 2015. He encouraged Planning Board members to attend the workshop.

School Department: Mr. Glennon thanked the School Department for allowing the Planning Board to try out this meeting location at the Alden School (School Committee meeting room), and thanked staff for making the arrangements. Mr. Wadsworth stated that staff has learned that it is not possible to televise Planning Board meetings from this location because equipment in this meeting room is controlled by the Educational Access channel which is separate from the Government Access channel at PAC-TV.

PLANNING BOARD MEETING LOCATION

Mr. Wadsworth stated that the Planning Board has no alternative but to move back to the Small Conference Room at Town Hall for future meetings, although it does not have any windows or alternate access/egress.

Mr. Broadrick reported that Mr. Dave Antoine from PAC-TV has offered to attend a future Planning Board meeting to make a presentation on the possibility of broadcasting Planning Board meetings in the future. Mr. Broadrick stated that the Mural Room is the only meeting room that would be able to provide live broadcast of Planning Board meetings. Board members agreed to invite Mr. Antoine to the next available Planning Board meeting.

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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.

TOWN CLERK

**CONTINUED PUBLIC HEARINGS FOR ANNUAL TOWN MEETING ZONING
ARTICLE: RE-ZONE OF 0 CONGRESS STREET (070-005-001) TO MODIFY
WETLANDS PROTECTION OVERLAY DISTRICT (CITIZEN PETITION)**

Mr. Wadsworth opened the continued public hearing at 7:15 PM. Ms. Ladd Fiorini noted the correspondence list as on file for the public record:

- "On-Site Soil Investigations Report" prepared by P. Fletcher and submitted by G. Hoffman at PB meeting on 02/23/15
- Highlighted WPOD map submitted by N. Doherty at PB meeting on 02/23/15
- Undated letter addressed to Neighbors of Pheasant Hill and Barn Swallow Lane Neighborhood submitted to PB Office on 02/25/15 re: Support to vote against article
- Email dated 03/02/15 from R. Grady to Samuel Butcher of Conservation Commission, cc to T. Broadrick et al. re: Questions on ATM warrant article petition
- Memo from J. Grady to PB et al. dated 03/05/15 re: ATM Articles 39, 40 and 41
- Letter from R.W. Galvin to PB dated 03/09/15 re: Spot zoning.

Present for the discussion was the property owner, Mr. Garth Hoffman.

Mr. Wadsworth noted that staff had distributed a letter from the property owner's representative, Atty. Robert W. Galvin, dated March 9, 2015. Mr. Broadrick noted that Atty. Galvin was unable to attend tonight's meeting due to a work conflict but had wanted to respond to Mr. Glennon's concerns regarding spot zoning. Mr. Broadrick noted that staff had also distributed a memorandum dated March 5, 2015 from Mr. Joseph Grady, Conservation Administrator regarding the Conservation Commission's position on the proposed article.

Mr. Glennon noted that Atty. Galvin presented a legal argument that the Wetlands Protection Overlay District (WPOD) ought to be repealed and in the meanwhile the citizen petition to change zoning for single properties is the only alternative for property owners to modify the zoning map. Mr. Glennon stated that it is not clear to him why it is not spot zoning, noting that it is a tricky issue. He thanked Mr. Hoffman for allowing his attorney to provide an opinion on spot zoning.

Mr. Casagrande stated that property owners have no choice but to modify the zoning map through Town Meeting as directed by Zoning Bylaws. He stated that it would be neater to put a special permit process in place instead, noting that the Zoning Bylaw Review Committee was attempting to address that issue.

Board members reviewed the plan submitted with the citizen petition, and also reviewed Mr. Grady's memorandum. Mr. Uitti noted that it appears that the Conservation Commission did not have ample time to review this complicated property. Ms. Turcotte noted that the Conservation Commission had affirmed flagged wetlands lines on the property. Mr. Casagrande noted that it appears that the property owner proposes to modify the WPOD boundary to coincide with the 50-foot buffer from wetlands, using soils tests as evidence. He noted that there are other potential issues with the property that would be addressed at a later date.

Mr. Broadrick stated that the Planning Board has the following options: make a positive recommendation, a negative recommendation, no recommendation, or make no report.

Mr. Wadsworth asked if the property owner would like to add any comments, and Mr. Hoffman replied that he had no new comments. Mr. Wadsworth then invited public comment.

Mr. Neal Doherty of 8 Pheasant Hill Lane distributed a site plan with his own mark-ups. He stated that the site is quite complicated and the access is one of the biggest complications. He stated that the access is 18-22 feet wide over a dam that was constructed in 2006 for bog access by filling wetlands with an agricultural exemption. Mr. Doherty stated that the Wetlands Protection Overlay District zoning bylaw references a 100-foot buffer, not a 50-foot buffer. He stated that the 100-foot buffer provides critical protection to the resource

area. He stated that he believes the property owner is proposing to remove the WPOD in order to construct two dwellings with two septic systems where there is no access to town water or utilities. He stated that two dwellings would create traffic from four or more vehicles and disruption to the WPOD which protects three water sources. He showed on the map he had distributed the location of a freestanding pond, a swamp and two future town wells. He stated that there is also an active stream further down West Street. He stated that water needs to be protected by at least a 100-foot buffer and that is why the town has the WPOD. He stated that he is speaking against Annual Town Meeting Article 41.

Mr. Michael Quinlan of 10 Pheasant Hill Lane urged the Planning Board to recommend opposing Article 41 on the basis that all the facts have not been evaluated. He stated that he believes it creates spot zoning, and he stated that the Conservation Commission has admitted that they are not finished evaluating the property. He stated that the proposed WPOD modification is not in the best interest of the town. He questioned why the proponents are addressing with town boards at the last minute for this article when they first went to town boards starting last April. He stated that the article is bad for the town's water supply and for the conservation of the town.

Mr. Hoffman, the property owner, clarified that he believes the Conservation Commission recognizes a 50-foot buffer, not a 100-foot buffer, consistent with WPOD modifications on Tremont Street and Franklin Street in past years. He stated that his property would still have to follow Conservation Commission Rules and Regulations, along with the state Wetlands Protection Act. He stated that he intends to install his own well on the property, and the soils perc well. He stated that he does not intend to cut any more trees than just to build the house. He stated that the abutters are just as close to the wetlands as his dwelling would be.

Mr. Casagrande asked Mr. Hoffman if he intends to have two properties on the land, and Mr. Hoffman confirmed that he is seeking the ability to build a second house. There are 5.5 acres of upland and 6.8 acres of wetlands. Mr. Casagrande noted that removing the WPOD line does not eliminate any other town regulations. He noted that a large portion of the land is outside the 100-foot buffer. Mr. Casagrande stated that it is a tricky site and that he would have liked to have seen more information from the Conservation Commission. He noted that one dwelling could be built on the property now, but there is still a ways to go toward dividing another house lot.

Ms. Ladd Fiorini noted that there appears to be another 50-foot buffer outside the WPOD, and Mr. Hoffman confirmed that there are wetlands on the property outside the WPOD, toward the front of the property.

Ms. Turcotte stated that there are two issues: Conservation Commission and zoning issues. She stated that the Town of Duxbury is unique in providing zoning protection to wetlands and right now the only way to change the WPOD line is through a vote at Annual Town Meeting.

Mr. Paul Driscoll of 232 Crescent Street stated that he is concerned with property rights because the property owner should be able to use the land. He stated that the consensus is that the WPOD line is questionable and could be wrong, and it should be moved at the public's request. He urged the Planning Board to stand neutral and allow the vote to go to Annual Town Meeting. He stated that he hopes that at some point the town will recognize the issue and do a study on the WPOD.

Ms. Turcotte agreed that it is an issue right now because too many property owners are going to Annual Town Meeting to modify the WPOD. She stated that it is unfair in cases where the property would be buildable otherwise.

Mr. John Baldwin of 110 High Street stated that a portion of Pheasant Hill Lane was also in the WPOD, and the property owner had gone to Annual Town Meeting to have the WPOD removed.

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Mr. Wadsworth stated that the site is complex compared to other Annual Town Meeting proposals that had no wetlands on the property, only adjacent. He stated that the impact here is unclear at this time because the Conservation Commission is not ready to provide input. He stated that if the Conservation Commission is not ready, then he is not ready.

Mr. Wadsworth suggested that the public hearing could be closed.

MOTION: Mr. Glennon made a motion, and Ms. Turcotte provided a second, to close the public hearing for a citizen petition for Annual Town Meeting to re-zone 0 Congress Street (070-005-001) to modify the Wetlands Protection Overlay District.

VOTE: Because Mr. Glennon was participating remotely, a roll call vote was required. Mr. Wadsworth voted yes; Mr. Glennon voted yes; Ms. Ladd Fiorini voted yes; Mr. Casagrande voted yes; Ms. Turcotte voted yes; and Mr. Uitti voted yes. Therefore, the motion carried unanimously, 6-0.

Therefore, the public hearing closed at 7:57 PM.

Mr. Wadsworth announced that the public is no longer allowed to provide input. He invited a motion for the Planning Board's recommendation on this article.

MOTION: Ms. Turcotte made a motion, and Mr. Casagrande provided a second, to take no position on Annual Town Meeting Article #41, a citizen petition for Annual Town Meeting to re-zone 0 Congress Street (070-005-001) to modify the Wetlands Protection Overlay District.

VOTE: A roll call vote was taken. Mr. Wadsworth voted no; Mr. Glennon voted yes; Ms. Ladd Fiorini voted yes; Mr. Casagrande voted yes; Ms. Turcotte voted yes; and Mr. Uitti voted yes. Therefore, the motion carried 5-1.

CONTINUED PUBLIC HEARING, DEFINITIVE SUBDIVISION: LITTLETOWN WAY, OFF TREMONT STREET / NASS & ALFIERI

Mr. Wadsworth opened the continued public hearing at 8:00 PM. Ms. Ladd Fiorini noted the following correspondence list on file for the public record:

- PB minutes of 11/10/14
- Mutual extension form signed by PB and applicant on 11/10/14 continuing public hearing to 01/26/15 with decision deadline of 02/28/15
- Undated letter from J. Stein submitted at PB meeting on 11/10/14 re: objections to proposed subdivision
- Letter from T. Tucker dated 11/10/14 and submitted at PB meeting on 11/10/14 re: Stein opposition to proposed subdivision
- Letter from L. Alfieri dated 11/14/14 re: certified abutters list
- Letter from L. Alfieri dated 11/19/14 re: response to T. Tucker letter of 11/10/14
- Email from T. Broadrick to A. Kreiger dated 11/24/14 re: PB question on APOD
- Letter from L. Alfieri to A. Kreiger dated 11/28/14 re: objection to Broadrick letter to A. Kreiger
- Letter from T. Tucker dated 12/05/14 re: response to L. Alfieri letter of 11/19/14
- Letter from L. Alfieri dated 12/10/14 re: response to T. Tucker letter of 12/05/14
- Email from T. Hale to T. Broadrick dated 01/02/15 re: copy of letter from L. Alfieri to Ms. Ulrika Ramsten with estate information
- Public hearing notice stamped with Town Clerk and mailed to abutters on 01/06/15 and published in Duxbury Clipper on 01/07/15
- Revised plans dated 01/11/15 and reports submitted by applicants on 01/15/15
- Emails between P. Brennan and T. Broadrick dated 01/20/15 re: APOD question
- Letter from P. Brennan dated 01/20/15 re: consulting engineer review letter of plans dated 01/11/15
- Memorandum from A. Kreiger to PB dated 01/20/15 re: Town Counsel opinion on applicable zoning and buffer zone

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- Emails between D. Grant and L. Alfieri et al. dated 01/23/15 – 01/26/15 re: Copy of Town Counsel letter and snow dates
- Email from T. Broadrick to PB dated 02/05/15 re: public hearing quorum issue for 02/09/15
- Email from L. Alfieri dated 02/09/15 re: request to continue public hearing until 02/23/15 (stamped with Town Clerk on 02/10/15)
- Emails between D. Orwig and P. Brennan dated 02/09/15 re: questions about Brennan review letter dated 01/20/15
- Cover letter, revised plans and revised drainage calculations submitted by D. Orwig on 02/12/15 and distributed to PB in 03/09/15 PB meeting packet
- Emails between D. Grant and P. Brennan dated 02/13/15 re: No consulting engineer letter needed for plans submitted 02/12/15
- Extension form signed by L. Alfieri and PB at PB meeting on 02/23/15 and stamped with Town Clerk on 02/24/15
- Email from J. Clark dated 02/08/15 re: Issues with proposed subdivision.

Present for the discussion were the applicant, Atty. Lee Alfieri, and his representative, Mr. Daniel Orwig of Orwig Associates in Duxbury. Also present was Mr. Rich Johnson of Amory Engineers, the town's consulting engineer.

Mr. Broadrick noted that four Planning Board members were present at the meeting plus Mr. Glennon participating remotely by phone. Atty. Alfieri stated that he had no problem with Mr. Glennon's remote participation or voting remotely.

Mr. Wadsworth noted that two letters had been distributed to Board members in their meeting packets: one from resident Jeanne Clark, and one from Town Counsel Atty. Arthur Kreiger. Mr. Wadsworth noted that Atty. Kreiger had provided an opinion that 40,000 square feet could be utilized as long as uses were kept outside the Aquifer Protection Overlay District (APOD).

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Mr. Broadrick summarized the application to date:

- Mr. Tony Kelso, Town Historian, has approved the proposed road name as Littletown Way
- In a June 5, 2014 letter, Amory Engineers stated that no waivers were requested
- In January 2015 Amory reported that one new waiver had been requested, for depth of the detention basin because the applicant wanted the basin to be deeper than Subdivision Rules & Regulations requirements
- Development Review Team had no major concerns
- On revised plans dated January 15, 2015, Lot A is located in the Residential Compatibility (RC) District and Lot B is located both in the RC District and the APOD. Town Counsel, Anderson & Kreiger, had advised that all structures located within the RC District must still meet dimensional requirements of the RC District.

Mr. Wadsworth invited Mr. Johnson from Amory Engineers to speak. Mr. Johnson confirmed that the waiver requested was for the depth of the detention basin. Subdivision Rules & Regulations limit the depth to 4 feet and the applicants propose 7 – 7.5 feet in depth. Mr. Johnson stated that it appeared to be a reasonable waiver because it would become dry within 25 hours of a 100-year storm so there is no potential hazard from standing water. Mr. Wadsworth asked if the proposed slope would be a safety issue, and Mr. Johnson said it would not. Mr. Casagrande asked if grass would be planted around the detention pond, and Mr. Johnson stated that grass would be planted on the slopes and bottom and shrubs would also be planted around it.

Mr. Broadrick noted that although revised plans dated February 2015 were provided in the Planning Board's packet, the Planning Board should focus on plans dated January 2015 because they had not yet been reviewed.

Mr. Wadsworth asked Mr. Orwig to present the plans. Mr. Orwig noted that the plans dated February 2015 respond to issues raised by Amory Engineers. Mr. Wadsworth raised an issue with water line size and Mr. Orwig agreed to check with the Water Department.

Mr. Glennon asked if Atty. Alfieri disagrees with Town Counsel's opinion on the allowable use zone, and Atty. Alfieri responded that based on that opinion, they are revising plans so that all buildings and structures would be located outside the APOD, including septic.

Mr. Glennon stated his concern with the subdivision roadway's relationship to the Stein driveway which runs over the property line, the location of the DPW facilities driveway directly across the street, and the proposal to move the 907 Tremont Street driveway. He stated that the proposed roadway location would intensify traffic.

Mr. Joel Stein of 879 Tremont Street stated that their driveway services two other properties, the Schomps and the Lowrys, so the proposed roadway would be servicing six families instead of three. Currently if there is snow on the driveway, a vehicle needs to back up in order to allow an oncoming vehicle to enter the driveway.

Mr. Broadrick stated that local streets are designed to serve three or less lots. If the access for 907 Tremont, Lot A and Lot B were to be combined with the existing driveway serving the three existing lots, it would become a minor street and would reduce the number of curb cuts on Route 3A (Tremont Street). Mr. Glennon stated that he would have an issue with leaving the Stein driveway in place and adding a new one a stone's throw away. Ms. Stein noted that a guard rail would need to be removed from Route 3A.

Atty. Alfieri stated that no firm decision has been made whether or not the 907 Tremont Street access would be moved to the new roadway or not, although moving it would improve the sight line. Mr. Wadsworth noted that the existing driveway is a 14-foot paved way. Mr. Glennon noted that a waiver could be requested for the benefit of public safety. Atty. Alfieri stated that he has no problem with re-directing the existing right-of-way so that it would tie into Littletown Way; however he would need agreement from the property owners who currently use the right-of-way.

Mr. Glennon stated that he would like to hear from the Steins. Atty. George Boerger introduced himself as attorney for the Steins. He stated that this proposed project is significantly located within the APOD, a zoning district put in place to protect town water. He stated that his clients do not oppose one additional dwelling on the lot but they do have an issue with two dwellings because the dwelling for Lot B would be stuck in the corner near abutting dwellings. He noted that both lots are irregularly shaped. He stated that Town Council has provided an opinion that the use may be extended by 30 feet but that is not the same as extending the dimensional requirements of the less restrictive district.

Mr. Broadrick stated that he is not sure he agrees with Atty. Boerger's assessment of the situation. Mr. Utti noted that the 150-foot circle appears to comply with dimensional regulations because there is an overlap in zoning districts. Atty. Boerger stated that dimensional regulations must be applied within a zoning district. Mr. Casagrande pointed out that the RC district underlies the APOD district. Atty. Boerger stated that locating the dimensional circle within the APOD undercuts the purpose of the APOD, to protect the town's water supply. Mr. Wadsworth stated that he helped develop the APOD and the 150-foot circle was not a tool for density reduction; it was designed to regulate lot shape.

Atty. Alfieri disagreed with Atty. Boerger's assessment. He stated that the proposed plans meet all regulations of the Zoning Bylaws. He stated that he would not mind providing a means of giving access over Littletown Way but would need a waiver for a local street.

Mr. Wadsworth invited public comment. Ms. Jeanne Clark of 88 Surplus Street read her letter of February 8, 2015 into the record, raising concerns with the proposed subdivision: lot extending into the 400-foot APOD buffer; attorney / applicant working against beneficiaries; second lot a detriment to the appeal of the property.

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Ms. Turcotte asked about the location of the proposed roadway, and Mr. Broadrick confirmed that it would be located within the APOD portion of the lot. He noted that the drainage basin is designed to take care of any runoff from the roadway. Mr. Wadsworth asked Mr. Johnson of Amory Engineers if the proposed drainage system would remove pollutants from stormwater runoff, and Mr. Johnson replied that the maintenance plan, if followed properly, would treat runoff. Mr. Glennon asked if a homeowners' association and operations & maintenance plan were proposed, and Atty. Alfieri responded that they are.

Atty. Boerger stated that all structures, including the roadway and drainage, are proposed within the APOD. Mr. Uitti stated that structures appear to be allowed according to Zoning Bylaws. Mr. Casagrande stated that he has never seen a driveway to be considered a structure. Mr. Wadsworth noted that driveways are not included in the definition of structure.

Ms. Cathy Stein of 879 Tremont Street stated that both 907 Tremont and the proposed subdivision are part of the First Parish Local Historic District. She asked if the Local Historic District Commission would have any say over the subdivision. She also stated her concern with drainage and maintenance plans to be part of her obligation if the roadway were to be combined with the existing easement, noting that she is not interested in being part of a homeowners' association that maintains a drainage system. She also objected to another curb cut on Route 3A. She stated that she does not agree with turning a little lane into a road off of Route 3A that is accessed by six residences.

Mr. Glennon stated that the proximity of curb cuts may be a potential safety issue. Mr. Wadsworth asked if the applicants had spoken with the state highway department about the proposed curb cut, and Mr. Orwig replied that they had not. Mr. Orwig stated that they are proposing to move the access for 907 Tremont for sight line safety reasons.

Ms. Stein asked about the elevation toward the back of the property that abuts the Duxbury Yacht Club, noting there is a steep elevation down to the Yacht Club golf course. Mr. Orwig stated that most of the trees on Lot B would need to be removed. Mr. Broadrick stated that all drainage needs to stay on the lot, and Mr. Orwig responded that the golf course actually drains toward the proposed subdivision.

Mr. Chris Allen of 56 Captains Hill Road stated that he represents the Duxbury Yacht Club, and stated his concern with removal of trees because it provides a buffer between the properties. Mr. Orwig stated that the Duxbury Yacht Club has a buffer of 100 to 150 feet of trees according to the land survey.

Mr. Wadsworth asked if the property lines had been staked, and Mr. Orwig replied that it had. Mr. Wadsworth suggested that a site visit be arranged. Atty. Alfieri stated that he had no problem with the public walking the site, and Ms. Stein also invited anyone to walk down her property during the site visit.

Mr. Glennon temporarily lost communication with the Planning Board at this point.

MOTION: Ms. Ladd Fiorini made a motion, and Mr. Casagrande provided a second, to continue the public hearing for Littletown Way / Nass & Alfieri to Monday, April 13, 2015 at 7:05 PM, with revised plans to be submitted by April 6, 2015.

VOTE: The motion carried 4-0-1, with Ms. Turcotte abstaining.

Board members and Atty. Alfieri signed a mutual extension form. Mr. Glennon re-established communication and re-joined the Planning Board meeting remotely due to geographic distance.

DUXBURY, MASS.
MAY - 1 AM 11:24
TOWN CLERK

**CONTINUED PUBLIC HEARING FOR ANNUAL TOWN MEETING ZONING
ARTICLE: RE-ZONE OF 0 NORTH STREET (023-010-001) TO MODIFY WETLANDS
PROTECTION OVERLAY DISTRICT (CITIZEN PETITION)**

Mr. Wadsworth opened the continued public hearing at 9:51 PM. Ms. Ladd Fiorini noted a correspondence list on file:

- Emails dated 02/04/15 – 02/10/15 between D. Grant, P. Brogna and B. Holmes re: PB meeting cancellations
- Emails between P. Brogna and T. Broadrick dated 02/18/15 re: revised plan
- Email from P. Brogna to T. Broadrick dated 03/05/15 re: PB meeting of 03/09/15
- Memo from J. Grady to PB et al. dated 03/05 15 re: Annual Town Meeting articles 39, 40 and 41
- Email from T. Broadrick to P. Brogna et al. dated 03/06/15 re: PB meeting location.

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Present to represent the petition were Mr. Paul Brogna of Seacoast Engineering; Mr. Brad Holmes of Environmental Consulting & Restoration in Plymouth; and Mr. Thomas Sullivan of Millbrook Survey in Marshfield. Mr. Brogna distributed revised plans dated February 25, 2015.

Mr. Casagrande asked what is the benefit of removing the WPOD on this property, noting that he cannot imagine a change in developable land.

Mr. Brogna stated that they are in the process of gaining more information on the land. A total of 12.9 acres of wetlands dissects the middle portion of the property. He stated that an additional 3,000 square feet would become available if the Wetlands Protection Overlay District (WPOD) line were to be modified for a potential of three buildable lots. Ms. Turcotte asked if three lots would be possible without the 3,000 square foot change, and Mr. Brogna replied that it would be difficult to say. He stated that it would not be a significant change, and they would still need to file with the Conservation Commission because there are wetlands on the property.

Board members reviewed a memorandum from Mr. Joseph Grady, Conservation Administrator, reporting that the Conservation Commission had voted to take no position on the proposed article because it is a complicated site and there is inadequate time to properly evaluate the proposal. Mr. Broadrick asked if the Conservation Commission approved wetlands delineations, and Mr. Brogna replied that they did not respond. Ms. Turcotte noted that it would be difficult to take a position when the wetlands line has not been delineated yet.

Ms. Deborah Frangesh of 399 North Street stated that she is an abutter to the property, and stated that she had spoken with Mr. Grady and he told her that he had not seen the proposed plan. She stated that she opposes the proposal because she is concerned with the potential of three buildable lots. She stated that her property uses well water. She stated her concern with the proximity of wetlands to the proposed buildable lots and also that a large number of trees would need to be taken down. She stated that there is not a lot of data available at this point in order to consider the proposal.

Mr. Wadsworth noted that the land is nowhere near development, and that tonight's discussion is a zoning issue. Ms. Frangesh noted that the wetlands line has not been approved on the property. Mr. Uitti noted that the process is to recommend an Annual Town Meeting article to rezone the WPOD district, and that process does not have any bearing on suitability of the land for subdividing. Ms. Frangesh stated that re-zoning is the first step toward subdividing.

Mr. Kim Abplanalp of 120 Myrtle Street asked if the purpose of petitions like this is to eke out more buildable land, and Ms. Turcotte responded that she did not see it that way at all. Ms. Turcotte stated that the purpose of the WPOD is to protect resource areas that were thought to be there but now we have more science to examine the soils and so the goal is to correctly delineate resource areas.

Ms. Mary Ann Abplanalp of 120 Myrtle Street asked if the property owner is planning to change the WPOD boundary and then sell the land. Mr. Casagrande responded that the property owner could sell the land without changing the WPOD line.

Mr. Abplanalp stated that he is familiar with the characteristics of the land, and stated that the lines established need to be seen and confirmed. He stated that there is a runoff pipe from an abutting property that flows right into the area where the WPOD district is proposed to be removed.

Mr. Brogna asked if the Planning Board takes no action on the article, what would the town look at to review. He stated that something has to give for property owners who want to do something with their land. Mr. Uitti stated that one issue is the lateness of the submission, so the Conservation Commission did not have enough information to review it. Mr. Brogna stated that that is not accurate. Mr. Wadsworth stated that the real issue is that the Conservation Commission cannot validate the wetlands. Mr. Brogna stated that the petition was submitted on December 2, 2014 before the first snowflake.

Ms. Frangesh stated that no proposal had been submitted with the original petition of where the WPOD line was to be changed. Mr. Uitti stated that no matter what had happened or not, the Planning Board can only rely on the memorandum from the Conservation Administrator and there is an absence of information to base a recommendation on.

Mr. Glennon asked if there was any more factual information that the proponents could provide. Mr. Brad Holmes of Environmental Consulting & Restoration stated that comparing the wetlands to the WPOD was like comparing apples to oranges.

Mr. Casagrande stated that going through Town Meeting is not the way to go about changing the WPOD line. Mr. Neal Frangesh of 399 North Street stated that he does not see how Annual Town Meeting could make a decision.

MOTION: Mr. Casagrande made a motion, and Ms. Turcotte provided a second, to close the public hearing for a citizen petition to modify the Wetlands Protection Overlay District on 0 North Street (023-010-001). Because Mr. Glennon was participating remotely by phone, a roll call vote was required.

VOTE: A roll call vote was taken. Mr. Wadsworth voted yes; Mr. Glennon voted yes; Ms. Ladd Fiorini voted yes; Mr. Casagrande voted yes; Ms. Turcotte voted yes; and Mr. Uitti voted yes. Therefore, the motion carried unanimously, 6-0.

The public hearing closed at 10:19 PM.

MOTION: Ms. Turcotte made a motion, and Mr. Glennon provided a second, to take no position regarding a citizen petition to modify the Wetlands Protection Overlay District on 0 North Street (023-010-001).

VOTE: A roll call vote was taken. Mr. Wadsworth voted yes; Mr. Glennon voted yes; Ms. Ladd Fiorini voted yes; Mr. Casagrande voted no; Ms. Turcotte voted yes; and Mr. Uitti voted yes. Therefore, the motion carried 5-1.

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 DUXBURY, MASS.
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DISCUSSION OF OTHER TOWN MEETING ARTICLES

RE-ZONE OF 0 NORTH STREET (023-010-001) TO MODIFY WETLANDS PROTECTION OVERLAY DISTRICT (CITIZEN PETITION):

MOTION: Ms. Turcotte made a motion, and Mr. Glennon provided a second, to take no position regarding a citizen petition to modify the Wetlands Protection Overlay District on 0 North Street (009-010-001).

VOTE: A roll call vote was taken. Mr. Wadsworth voted yes; Mr. Glennon voted yes; Ms. Ladd Fiorini voted yes; Mr. Casagrande voted yes; Ms. Turcotte voted yes; and Mr. Uitti voted yes. Therefore, the motion carried unanimously, 6-0.

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ZBA REFERRAL, SPECIAL PERMIT: 24 BRYANT AVENUE / EGAN

Present for the discussion of this special permit were the applicant, Ms. Susan Egan, and her representatives: Mr. John Baldwin; and Mr. Mark Casey of South Shore Survey. Planning Board members reviewed this application to demolish an existing dwelling on a pre-existing nonconforming 3,800 square-foot lot and rebuild a new 34' x 26' front porch, resulting in an encroachment into the front setback and an increase in lot coverage. Mr. Casagrande stated that any recommendation to the Zoning Board of Appeals (ZBA) should be constructive.

MOTION: Mr. Casagrande made a motion, and Ms. Turcotte provided a second, for the Planning Board to recommend approval to the Zoning Board of Appeals for a special permit to demolish an existing dwelling on a pre-existing nonconforming 3,800 square-foot lot and rebuild a new 34' x 26' front porch at 24 Bryant Avenue / Egan, subject to the ZBA's determination that the project is not more detrimental to the neighborhood and that the front setback is in keeping with the front setback of abutting properties on the street.

DISCUSSION: Mr. Casagrande noted that the side setbacks and rear setbacks are not increased but the farmer's porch does continue to encroach on the front setback. He noted that the new structure could be moved away from the front without encroaching on the rear setback. He also noted that the lot coverage appears to be changing from 14.1% to 15.4%, but the "three percent rule" could apply here. He stated that for a lot of this size, it is a good plan.

Mr. Glennon stated that when there is a teardown the applicant should try to conform, although it is a small lot. He stated that he would like to see the front setback moved back more. Mr. Casagrande stated that this is something that the ZBA should discuss with the applicant. Mr. Glennon stated that with teardowns it would be better if the new structure were more conforming.

VOTE: A roll call vote was taken. Mr. Wadsworth voted yes; Mr. Glennon abstained; Ms. Ladd Fiorini voted yes; Mr. Casagrande voted yes; Ms. Turcotte voted yes; and Mr. Uitti voted yes. Therefore, the motion carried 5-0-1.

STATUS REPORT ON ZONING BYLAW REVIEW COMMITTEE

Mr. Wadsworth asked Mr. Casagrande to update the Planning Board on the Zoning Bylaw Review Committee (ZBRC). Mr. Casagrande reported that four articles were originally discussed for Annual Town Meeting 2015; however there were legal issues which prevented them from moving forward.

Mr. Wadsworth, who also serves on the ZBRC, noted that the committee has not met since January. Mr. Casagrande agreed that the ZBRC needs to push the consultants to get recommendations. The ZBRC goal is to complete its work by Annual Town Meeting 2016.

OTHER BUSINESS

Planning Board Minutes:

MOTION: Mr. Casagrande made a motion, and Mr. Uitti provided a second, to approve Planning Board minutes of January 12, 2015 as amended.

VOTE: A roll call vote was taken. Mr. Wadsworth voted yes; Mr. Glennon voted yes; Ms. Ladd Fiorini voted yes; Mr. Casagrande voted yes; Ms. Turcotte voted yes; and Mr. Uitti voted yes. Therefore, motion carried unanimously, 6-0.

MOTION: Ms. Turcotte made a motion, and Mr. Casagrande provided a second, to approve Planning Board minutes of February 11, 2015 as amended.

VOTE: A roll call vote was taken. Mr. Wadsworth voted yes; Mr. Glennon voted yes; Ms. Ladd Fiorini voted yes; Mr. Casagrande voted yes; Ms. Turcotte voted yes; and Mr. Uitti abstained. Therefore, the motion carried, 5-0-1.

ADJOURNMENT

The Planning Board meeting adjourned at 10:40 PM. The next Planning Board meeting will take place on Monday, March 23, 2015 at 7:00 PM at the Alden School, Room 104, 75 Alden Street.

MATERIALS REVIEWED

Planning Board Meeting Location

- No materials

Public Hearing for Annual Town Meeting Zoning Article: Re-Zone of 0 Congress Street (070-005-001) to Modify Wetlands Protection Overlay District (Citizen Petition)

- No materials

Continued Public Hearing, Definitive Subdivision: Littletown Way, off Tremont Street / Nass & Alfieri

- Revised plans dated 02/12/15
Letter from J. Clark dated 02/05/15
Letter from A. Kreiger dated 01/20/15

Continued Public Hearing for Annual Town Meeting Zoning Article: Re-Zone of 0 North Street (023-010-001) to Modify Wetlands Protection Overlay District (Citizen Petition)

- No new materials

Discussion of Other Town Meeting Articles

- Final ATM & STM warrants
Planning Board Votes ATM 2015 dated 03/04/15

ZBA Referral, Special Permit: 24 Bryant Avenue / Egan

- ZBA application and materials submitted on 03/02/15
Vision GIS map, aerial orthophoto, and Assessor's property card

Status Report on Zoning Bylaw Review Committee

- No materials

TOWN CLERK
15 MAY -1 AM 11:25
DUXBURY, MASS.

PLANNING BOARD MINUTES

Date: March 9, 2015

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Approved 04/27/15

Other Business

- PB meeting minutes of 01/12/15
- PB meeting minutes of 02/11/15
- Construction Cost Estimates for February 2015
- ZBA decision: 136 Summer Street / Nejame

TOWN CLERK
15 MAY -1 AM 11:25
DUXBURY, MASS.