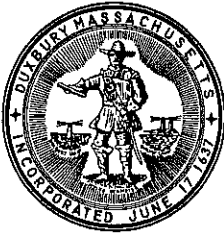


Approved 04/27/15



Town of Duxbury Massachusetts Planning Board

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

Minutes 03/23/15

The Planning Board met on Monday, March 23, 2015 at 7:00 PM at the Alden School, Room 104, 75 Alden Street.

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

Absent: John Bear and Jennifer Turcotte.

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

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

OPEN FORUM

Littletown Way Site Visit: Mr. Broadrick confirmed that the Planning Board will hold a site visit at the proposed Littletown Way property off Tremont Street on Saturday, April 11, 2015 at 9:00 AM.

PLANNING BOARD MEETING LOCATION

Mr. Broadrick noted that beginning with its next meeting the Planning Board would return to Town Hall, Small Conference Room, lower level for its meetings. He noted that the room can become crowded and the air conditioning / heat does not function well. The advantage to meeting at Town Hall is that records and copying functions are readily available. He introduced Mr. Dave Antoine, Government Access Coordinator of PAC-TV, who was present at the Planning Board's invitation in order to make a brief presentation on the advantage of recording meetings for public access broadcast.

Mr. Antoine provided a Power Point presentation. He stated that he respected the Planning Board members' schedule to meet on Monday nights. He noted that if Planning Board members were to change their meetings to a night other than Mondays, then PAC-TV could broadcast meetings live on the government access channel, and meetings would also be available for viewing on demand and even through smart phones. He stated that already the Board of Selectmen, the Board of Health, the Zoning Board of Appeals, and Annual Town Meeting are broadcast live on the government access channel. He stated that PAC-TV provides trained videographers.

Mr. Wadsworth noted that the Planning Board is not able to meet in the Mural Room on Monday nights because the Board of Selectmen meet on Mondays. He added that it is sometimes an advantage that the Board of Selectmen and Planning Board both meet on Mondays because they can meet jointly on topics as needed. He asked Mr. Antoine if it would be possible for PAC-TV to record Planning Board meetings at another site on Monday nights. Mr. Antoine replied that it would be impossible based on logistics and training. He stated that the Mural Room is already set up for live broadcast and the audio/visual quality is best in that room.

878 Tremont Street, Duxbury, MA 02332; Telephone: 781-934-1100 x 5476; www.town.duxbury.ma.us/planning

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.

Mr. Glennon asked if the Planning Board staff would be available to meet on a night other than Monday, and Mr. Broadrick replied that although Town Hall is already open until 7:00 PM on Monday nights, he had no issue with working on Wednesday nights for Planning Board meetings.

Ms. Ladd Fiorini recommended that the Planning Board discuss this topic further when all members can be present. Mr. Antoine thanked the Planning Board for its consideration and invited members to watch the next Zoning Board of Appeals meeting live on Thursday night. He also offered to come to a future Planning Board meeting if needed.

Board members then reviewed a draft letter from Mr. Broadrick to Dr. Benedict Tantillo, Superintendent of Schools, thanking the School Department for accommodating the Planning Board meeting rooms during the months of January through March. Board members made edits to the letter.

MOTION: Mr. Glennon made a motion, and Mr. Uitti provided a second, to approve a letter from the Planning Director to the Superintendent thanking the School Department for use of the schools for Planning Board meetings during January through March 2015.

VOTE: The motion carried unanimously, 5-0.

Board members discussed alternatives for meeting place, and decided to continue the discussion when all members are present.

**MINOR MODIFICATION AND HOMEOWNERS' ASSOCIATION APPROVAL:
GUDRUN WAY DEFINITIVE SUBDIVISION, OFF FRANKLIN STREET / BARTLETT**

Present for the discussion were the applicants, Ms. Diane Bartlett and the Rev. Richard Bartlett. Mr. Wadsworth recused himself from chairmanship because he serves on a town committee with Ms. Bartlett, so Mr. Glennon assumed chairmanship for this topic only.

Mr. Broadrick explained that the applicants have a surety agreement and a Planning Board covenant that they would like the Planning Board members to sign, and they also would like the Planning Board's approval of a proposed Homeowners' Association drafted by their attorney. The Planning Board had already approved Roadway Maintenance Agreement and a Declaration of Covenants and Restrictions.

Mr. Broadrick stated that the applicants also would like the Planning Board to approve a minor modification in order to eliminate the installation of bounds due to an ongoing haying operation on the land. He stated that it is impossible to bury the bounds because rototilling equipment goes into the ground occasionally. Rev. Bartlett stated that the rototiller digs up to 18 inches underground.

Mr. Casagrande asked exactly which bounds the applicants propose to eliminate, and Rev. Bartlett replied that they would like to eliminate bounds along the new roadway. Mr. Broadrick explained that Subdivision Rules and Regulations require bounds at every point where there is a turn or in the road layout. Mr. Wadsworth asked if the Definitive Subdivision mylars would need to be changed, and Mr. Broadrick stated that a memorandum could be written to the Town Clerk noting the minor modifications approved.

Mr. Wadsworth stated that the bounds near Franklin Street need to remain.

Mr. Glennon asked if this topic had been brought up prior to the subdivision approval, and Ms. Bartlett replied that it did not. Mr. Broadrick stated that Ms. Bartlett had initiated the discussion recently and the conversation had escalated from removing two bounds to removing more.

Mr. Glennon stated that while he wants to respect the needs of the haying operation, the applicants did receive approval of a subdivision. He noted that near Franklin Street the bounds would basically be buried underneath bushes.

Board members reviewed the bounds to be removed with Rev. and Mrs. Bartlett and identified the bounds to be removed on a details plan drawn by their engineer, Mr. Paul Brogna of Seacoast Engineering.

MOTION: Mr. Casagrande made a motion, and Ms. Ladd Fiorini provided a second, to approve a minor modification of the Gudrun Way Definitive Subdivision by eliminating the requirement to install seven bounds according to a plan entitled, "Proposed Conditions Plan, Details Plan, Bartlett Way, Duxbury, MA," dated August 5, 2014, drawn by Seacoast Engineering Company, and stamped and signed by Paul A. Brogna, RPE. The bounds to be waived are circled in red and are numbered 1, 2, 3, 4, 5, 6 and 7. All other bounds as shown on the same plan are to be installed according to approved plans referenced in the Certificate of Notification for the Gudrun Way Definitive Subdivision dated November 4, 2014.

VOTE: The motion carried unanimously, 5-0.

Board members then reviewed the proposed Homeowners' Association document. Mr. Broadrick explained that it is a standard document that would be related to the Roadway Maintenance Agreement. Mr. Glennon asked if the Roadway Maintenance Agreement and Declaration of Covenants and Restrictions were prepared, and Ms. Bartlett replied that they had. Board members made minor edits to the document.

MOTION: Mr. Uitti made a motion, and Mr. Casagrande provided a second, to approve Homeowners' Association for Gudrun Way Definitive Subdivision as amended.

VOTE: The motion carried unanimously, 5-0.

Board members then endorsed the Planning Board Covenant and Surety agreement and Mr. Broadrick notarized their signatures. Ms. Bartlett was advised that these documents would need to be recorded at the Plymouth County Registry of Deeds.

INITIAL PUBLIC HEARING, DEFINITIVE SUBDIVISION: MCLEAN'S WAY, OFF BOW STREET / REINHALTER

Mr. Wadsworth opened the public hearing at 7:58 PM. Ms. Ladd Fiorini read the public hearing notice and correspondence list for the public record:

- PB minutes of 01/12/15
- Application, plans and materials submitted 02/10/15
- Cover letter from D. Grant to P. Brennan dated 08/08/14 re: application transmittal
- Email from E. Reinhalter to D. Grant dated 02/27/15 re: Consulting engineer fee schedule
- Public hearing notice stamped with Town Clerk and mailed to direct abutters on 03/03/15 and published in the Duxbury Clipper on 03/04/15 and 03/11/15
- Emails between P. Palmieri and T. Broadrick dated 03/09/15 re: Questions on review letter
- Letter from P. Palmieri dated 03/16/15 re: Initial consulting engineer review letter.

Present for the discussion were the applicant, Dr. Emil Reinhalter, and his representatives: Mr. Rick Grady of Grady Consulting LLC in Kingston; and Atty. Peter Freeman. Also present was the town's consulting engineer, Mr. Peter Palmieri of Merrill Associates in Hanover.

Mr. Wadsworth asked Mr. Grady to present the plan. Mr. Grady stated that the land is on a property known as 70 Bow Street that has nine acres. He noted that there is currently a pending 40B application with the Zoning Board of Appeals that would be withdrawn if the Definitive Subdivision goes forward. The 40B application is for 24 units and the Definitive Subdivision plan is for five single family dwelling lots.

Mr. Grady stated that the proposed roadway would intersect with Bow Street at a 90 degree angle and would go 899 feet to a dead end, within the 1,000 maximum length. Subdivision Rules and Regulations require an 18-foot width with Cape Cod berms. The applicants are proposing to change the road width from 18 to 20 feet with a waiver to eliminate sidewalks. The berm would go from 18 to 12 inches wide, a width typically used by Duxbury Highway Department.

The property slopes upward from approximately 78 feet in elevation at Bow Street to approximately 86 feet at the end of the cul de sac. There is a steep drop-off at the southwest corner of the lot that goes down to approximately 30-40 feet in elevation. There is a total of 8.7 acres of upland on the property.

The proposed drainage includes catch basins and manholes to a rain garden at the front of the subdivision, and another rain garden on the high side of the proposed earthen beam on Lots 4 and 5. Drywells are proposed for the dwelling roof drains on each individual lot.

Mr. Grady explained that the roadway was moved from the original plan in 2010 in order to minimize cut and fill and also to eliminate the need for a large retaining wall on the south side of the property. He showed on one of the plans where grading would be required. He stated that septic systems would be located on each individual lot.

Mr. Grady stated that the cul de sac conforms with requirements of the Subdivision Rules and Regulations, and drainage calculations have been provided for the two rain gardens. He noted that the town consulting engineer, Mr. Peter Palmieri, had submitted a review letter and the additional information he requested could be provided. He asked for the Board's permission to meet with Mr. Palmieri to re-design the rain garden on the slope.

Mr. Grady noted that five waivers are requested:

1. Filing fees – He noted that rationale is provided in the cover letter to the application. The applicant had spent \$2,450 on a previous application for a 7-lot subdivision which was withdrawn. The applicant is now requesting a waiver of the \$2,000 filing fee for the current application.
2. Sidewalks – The applicants are requesting a waiver to the requirement for sidewalks and propose to increase the roadway width from the required 18 feet to 20 feet.
3. Stormwater Drainage – Subdivision Rules and Regulations require a 50-foot buffer of vegetation between drainage structures and adjacent uses or structures, and buffers are required to be contained within the drainage lot. The applicants request a waiver in order to allow the 50-foot buffer to carry over to an adjacent lot where existing vegetation is located. The existing driveway on the drainage lot would be abandoned and allowed to grow over with grass.
4. Pavement width – The applicants request a 12-inch berm instead of an 18-inch berm.
5. Pavement width – As mentioned earlier the applicant is requesting a 20-foot road width rather than the required 18-foot width.

Mr. Glennon noted that one of the rain gardens is located on Lot 7. He asked if Lot 6 is adjacent to Bow Street. Mr. Grady responded that Lot 6 would be combined with 56 Bow Street.

Mr. Glennon asked how many drywells would be located on each lot in order to reduce surface runoff, and Mr. Grady replied that three drywalls per home are proposed because the soil is loamy sand that is less pervious. Typically two drywells per house are adequate.

Mr. Wadsworth asked if percolation tests had been performed and Mr. Grady replied that they had.

Mr. Uitti noted that there are a lot of waivers to be considered in one night. He stated that he would be in favor of waiving the application fee because to charge again would be double billing for this application. He stated that he would agree with widening the way and eliminating sidewalks as long as the consulting engineer sees no issue. He stated that he also would have no problem with the drainage basin waiver as long as the consulting engineer recommends it.

Ms. Ladd Fiorini asked if the applicant would be working with the consulting engineer on the rain gardens, and Mr. Grady stated that they need to discuss a number of items with Mr. Palmieri and may need to increase the density of the rain garden. Mr. Broadrick stated that he would like to be informed of discussions between Mr. Grady and Mr. Palmieri. Ms. Ladd Fiorini stated that she would agree with all the waivers except the drainage, pending a recommendation from the consulting engineer.

Mr. Broadrick asked if the Planning Board would approve of Mr. Grady getting together with Mr. Palmieri, and Mr. Wadsworth approved. Mr. Broadrick requested to ask some questions of Mr. Grady prior to opening the floor to public comment.

Mr. Broadrick asked about plan sheet 6 of 8, if the applicant proposes to grub the entire 50 foot right-of-way or if they propose to remove the trees and replace them every 30-40 feet. Mr. Grady replied that the entire 50 foot right-of-way would be removed, noting that upon examination there is not anything worth saving. Mr. Broadrick noted that only 30,000 square feet of clearing is allowed per 40,000 square feet, stating that the public should be made aware.

Mr. Wadsworth stated that fees are charged to cover staff time in processing applications, and time is required for this application. He stated that he would like to see a more detailed cross section of the rain garden in Lots 4 and 5 that could be added to the landscape plan to better understand what the applicant is trying to do.

Mr. Wadsworth asked if the maintenance of the road would eventually be taken over by the town, and Mr. Broadrick responded that it is a possibility. Mr. Wadsworth stated that if the town is to take over the road, then the town will need an easement in order to access the drainage area.

Mr. Broadrick then addressed the fee waiver, stating that fees are deposited into the town's general fund, and that in general fees are not returned when an application is withdrawn. Mr. Glennon stated that the applicant is paying for a more expensive consulting engineer, and so he agreed with offset the application fee accordingly. Mr. Casagrande noted that the fee waiver for this application is not a standard for the future.

MOTION: Mr. Glennon made a motion, and Mr. Uitti provided a second, to approve the applicant's request for an application fee waiver of \$2,000.00 for McLean's Way Definitive Subdivision application, noting that this is not a precedent-setting situation.

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

Mr. Wadsworth asked Mr. Palmieri to summarize his review of the plans. Mr. Palmieri stated that there are a number of "housekeeping issues" that need to be resolved. In addition, there are still drainage concerns. An overflow spillway is needed on the Lot 7 rain garden so water does not go onto the road. Planting and cross-sections are needed. An easement needs to be created to make the land available to the town once it is accepted by the town. Drainage systems are proposed on two private lots, and asking homeowners to maintain them realistically may not happen. Also, additional plantings are needed on the rain garden near Bow Street.

Mr. Wadsworth stated that there are problems at a cluster subdivision, Weston Farms, where drainage lots are located on private property. At that development, property owners were mistakenly filling drainage swales. Mr. Wadsworth noted that the Planning Board's intent is to avoid situations like this.

Mr. Wadsworth noted that a 50-foot vegetated buffer is not feasible because it would go into house lots. He stated that while rain gardens are generally a good idea, they may not be the best idea for this particular subdivision. Mr. Broadrick recommended that the applicants confer with DPW Director, Mr. Peter Buttkus, to determine his preference.

Mr. Palmieri noted that Subdivision Rules and Regulations require a separate lot. Mr. Wadsworth asked if the center of the cul de sac could play a role in providing drainage, and Mr. Palmieri replied that it could, although so much area downstream of the roadway is picked up at the Bow Street basin. The problem area is the southern lots. Mr. Palmieri agreed that he and Mr. Grady need to get together and discuss the drainage with Mr. Buttkus.

Mr. Wadsworth invited public comment. Ms. Linda Moriarty of 52 Bow Street stated that she is very relieved that the applicant reverted to a subdivision plan instead of a 40B project. She stated that the proposed subdivision is better than the cluster, too. She stated that Dr. Reinhalter has listened to abutters. She stated that a remaining concern is drainage because her property goes downhill from the subdivision. She stated that she is nervous about potential clearing and would like to see the problem addressed. She questioned how the DPW would reach the drainage area. She also stated her concern with the potential placement of a house on top of her property that would look down over her property. She stated that she had thought that percolation tests had shown that no house could be built there.

Mr. Bob Fallen of 98 Bow Street stated that his property is located next to the proposed easterly rain garden, and stated that this proposed subdivision has his total support.

Mr. Brian Moriarty of 52 Bow Street asked if the subdivision is not truly five lots plus one lot. Mr. Wadsworth responded that a five-lot subdivision is proposed. Mr. Broadrick noted that there is another house lot on Bow Street that is owned by the applicant and is not part of the subdivision application. He stated that it is possible, however, that the individual lot could eventually gain its access from the new roadway.

Mr. James White of 53 Bow Street stated that he lives across the street from the subdivision, and stated that he is grateful for the latest plan. He asked what constitutes the ability for a road to be accepted by the town. Mr. Wadsworth stated that a 50-foot layout is required with 18 feet of pavement and a radius of 150 feet for Town Meeting approval. The town acceptance of the road goes through the Planning Board and Board of Selectmen with a recommendation from the DPW Director.

Ms. Becky Vuilleumier of 7 West Street stated that she and her husband are happy with the proposed plan. She asked what the proposed rain garden will look like. Mr. Broadrick provided her with examples of developments in town with rain gardens, including Fisher Ridge, Duxbury Estates and the police station. Mr. Wadsworth explained that the intent is to get rid of water and clean it to remove phosphates and nitrates.

Mr. Casagrande stated that they take the place of basins that were formerly used and are much preferred. He cautioned that vegetation takes time.

After further discussion the Planning Board decided to defer votes on other proposed waivers until a future meeting.

MOTION: Mr. Glennon made a motion to continue the public hearing for McLean's Way Definitive Subdivision / Reinhalter to Monday, April 13, 2015 at 7:15 PM, with revised plans due by April 6, 2015.

VOTE: The motion carried unanimously, 5-0.

The Planning Board and applicant both signed a mutual extension form.

DEPARTMENT OF ENVIRONMENTAL PROTECTION REQUEST FOR PLANNING BOARD COMMENT LETTERS ON DUXBURY HARBOR DREDGING

Board members reviewed two draft letters of support for the harbor dredging project from the Planning Board for the Town Harbor and Duxbury Bay Maritime School. Mr. Glennon asked if there would be any other improvements or issues, and Ms. Ladd Fiorini noted that floats would be reconfigured. Mr. Casagrande noted that during dredging the floats would need to be removed anyway, so it would be a good opportunity to improve the configuration of the floats. Mr. Uitti asked who proposed the reconfigured floats, and Mr. Broadrick replied that the Town Harbormaster and the Duxbury Bay Maritime School proposed them, and Mr. Uitti stated that he would defer to them because they would know best.

MOTION: Mr. Uitti made a motion, and Ms. Ladd Fiorini provided a second, to approve sending letters to the Department of Environmental Protection in support of dredging Duxbury Harbor on behalf of the Town Harbormaster and the Duxbury Bay Maritime School.

VOTE: The motion carried unanimously, 5-0.

ZBA REFERRAL, SPECIAL PERMIT: 28 CHAPEL STREET / NEVILLE

No one was present to represent the application. Mr. Uitti recused himself from the discussion and vote because he is a friend of the Neville family. Mr. Broadrick explained that this special permit request is to construct a 5' x 34' addition, a screened porch and a covered deck; and to demolish the existing garage and construct a new 22' x 22' garage.

Mr. Wadsworth asked if coverage was an issue with this application, and Mr. Broadrick replied that the proposed coverage is 15 percent. Mr. Casagrande stated that the issue with this special permit is the side setback. Ms. Ladd Fiorini stated that the existing dwelling encroaches on the side setback and the proposed addition increases the encroachment. Mr. Broadrick confirmed that the encroachment changes from 14.2 feet to 13.5 with the new addition.

Mr. Wadsworth stated that he believes the addition could be moved away from the side setback. Mr. Casagrande stated that he did not see how the addition could be built to avoid the side setback encroachment. Mr. Glennon stated that it could "bump in" to keep it conforming.

MOTION: Ms. Ladd Fiorini made a motion, and Mr. Glennon provided a second, to recommend disapproval to the Zoning Board of Appeals regarding a special permit application for 28 Chapel Street / Neville based on an increase in the side setback creating a further setback violation for the dwelling structure and the increase in the size of the garage within the side setback which increases the nonconformity even though the garage setback distance is slightly decreased.

DISCUSSION: Mr. Casagrande recommended that the Board consider deferring judgment to the ZBA with discussion of the issues. Mr. Glennon stated that he would support the motion as is because the length of the garage has increased, and razing the existing garage and building a new garage provides an opportunity for it to be constructed within setbacks.

VOTE: The motion carried, 3-1-1, with Mr. Casagrande voting against and Mr. Uitti abstaining.

DISCUSSION OF ANNUAL TOWN MEETING

Board members decided to defer discussion on this topic until the next Planning Board meeting.

OTHER BUSINESS

Planning Board Minutes:

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

VOTE: The motion carried unanimously, 5-0.

ADJOURNMENT

The Planning Board meeting adjourned at 9:27 PM. The next Planning Board meeting will take place on Monday, April 13, 2015 at 7:00 PM at Town Hall, Small Conference Room, 878 Tremont Street.

MATERIALS REVIEWED

Planning Board Meeting Location

- Draft letter from T. Broadrick to B. Tantillo

Minor Modification and Homeowners' Association Approval: Gudrun Way Definitive Subdivision, off Franklin Street

- Email from D. Bartlett dated 03/05/15 re: Minor modification request
- Draft Homeowners' Association document submitted 03/05/15

Initial Public Hearing, Definitive Subdivision: McLean's Way, off Bow Street / Reinhalter

- Public hearing notice
- PB minutes of 01/12/15
- Definitive Subdivision application and plans submitted on 02/10/15
- Letter to T. Broadrick from P. Palmieri dated 03/16/15 re: Initial peer review
- Vision GIS map, aerial photo and Assessor's property card

Department of Environmental Protection Request for Planning Board Comment Letter on Duxbury Harbor Dredging

- DEP Notification of Chapter 91 license application for DBMS
- Draft letter dated 03/18/15 from PB to DEP re: Comment letter
- DEP Notification of Chapter 91 license application for Harbormaster
- Draft letter dated 03/18/15 from PB to DEP re: Comment letter

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PLANNING BOARD MINUTES

Date: March 23, 2015

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ZBA Referral, Special Permit: 28 Chapel Street / Neville

- ZBA application and materials submitted on 03/09/15
- Vision GIS map, aerial orthophoto, and Assessor's property card

Discussion of Annual Town Meeting

- PB Votes ATM 2015

Other Business

- PB meeting minutes of 02/23/15
- MassDOT Draft Project Overview of Route 3 Express Toll Lanes submitted by MAPC via email on 03/17/15
- ZBA decision: 80 North Street / Quevillon
- ZBA decision: 1474 Tremont Street / Duxbury Motorworks
- ZBA decision: 57 Josselyn Avenue / Walsh & Skok

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