

Approved 09/28/15



Town of Duxbury Massachusetts Planning Board

TOWN CLERK
15 SEP 30 AM 9:26
DUXBURY, MASS.

Minutes 08/17/15

The Planning Board met on Monday, August 17, 2015 at 7:00 PM at the Duxbury Town Hall, Mural Room.

Present: George Wadsworth, Chairman; Cynthia Ladd Fiorini, Clerk; John Bear, Jennifer Turcotte, and David Uitti.

Absent: Brian Glennon, Vice Chairman; and Scott Casagrande.

Staff: Mary Elizabeth Burgess, Interim Planning Director; and Diane Grant, Administrative Assistant.

Mr. Wadsworth called the meeting to order at 7:00 PM. He announced that tonight's meeting is being broadcast live on PAC-TV.

OPEN FORUM

Interim Planning Director: Ms. Grant introduced Ms. Mary Elizabeth Burgess as new Interim Planning Director. Ms. Burgess stated that she will be serving part-time until a permanent, full-time Planning Director is hired.

MBTA Advisory Board: Ms. Turcotte reported that the Board of Selectmen's office has contacted her regarding her position on the MBTA Advisory Board. She stated that Mr. Richard Prone has requested to be appointed as the Town of Duxbury representative to the MBTA Advisory. She stated that she has no issue with giving up her appointment because it appears that Mr. Prone, a former train engineer, is more familiar with the MBTA than she is. It was agreed to defer discussion until more Planning Board members could be present.

Planning Board Meeting Night: Ms. Grant suggested that the time may be right to consider changing the Planning Board meeting night before a new permanent Planning Director is hired. She stated that the benefits of meeting on Wednesdays instead of Mondays would be that the Planning Board could meet in the Mural Room and be broadcast on PAC-TV. She stated that being televised would educate and inform the public on what the Planning Board does, and the Mural Room is a larger, safer meeting room than the Small Conference Room. She reported that Mr. Casagrande, who could not attend tonight's meeting, had weighed in that he may not be able to attend as many Planning Board meetings if they were changed to Wednesdays because of Zoning Bylaw Review Committee (ZBRC) meetings and another personal conflict.

Mr. Wadsworth stated that he also is on the ZBRC and he does not feel that it is a conflict because they do not meet regularly. Mr. Bear stated that he can see no big advantage in changing meeting nights but he has no conflicts on Wednesdays. Ms. Ladd Fiorini stated that Wednesdays would work for her, noting that the real question is: Does the Planning Board want to be televised? Mr. Uitti stated that he is sensitive to others' comments and although he has no personal issues with meeting on Wednesdays he would want to consider the needs of everyone. He stated that he could go either way on the matter. Ms. Turcotte stated that she also was agreeable either way. Mr. Bear suggested that the Planning Board should wait until all seven Planning Board members are present before discussing further. Mr. Wadsworth observed that the full board is not expected until October.

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

CONSOLIDATED PUBLIC HEARING, DUXBURY PLANNING BOARD AND TREE WARDEN: 100 EAGLES NEST ROAD / KOENIG

Mr. Wadsworth opened this Scenic Road and Public Shade Tree Removal public hearing at 7:05 PM. Present for the discussion were the Deputy Tree Warden, Mr. James Savonen, and the applicants' representative, Mr. David Duffy of Phillips Tree. Ms. Ladd Fiorini read the public hearing notice and noted the correspondence list on file:

- Special permit application and plan submitted on 07/21/15
- Public hearing notice posted with Town Clerk on 07/29/15 and published in the *Duxbury Clipper* on 07/20/15, and mailed to certified abutters.

Mr. Wadsworth asked if Mr. Savonen had any objections to the proposed clearing of two pine trees with a 24-30-inch DBH located on either side of the driveway at a residence on Eagles Nest Road. Mr. Savonen stated that he and Tree Warden Peter Butkus do not object as long as more trees are planted on the property. He stated that he had observed ant infestation which may threaten the health of the trees. Mr. Duffy stated that the applicants plan to plant approximately 25 new trees and shrubs on the property along with the clearing. He showed Planning Board members a landscape plan drawn by Forti Landscape.

Mr. Wadsworth asked if more than 30,000 square feet of clearing is proposed, and Mr. Duffy responded that a total of four trees will be cleared on the property.

Mr. Wadsworth invited public comment. Ms. Lisa Betteridge of 68 Eagles Nest Road stated that she is an abutter to the proposed clearing, and she is supportive of the trees coming down. She stated that large pines can break during a storm and if that happened the trees would fall on the part of the house where the children sleep.

MOTION: Ms. Turcotte made a motion, and Mr. Uitti provided a second, to close the consolidated Scenic Road and Public Shade Tree hearing for 100 Eagles Nest Road / Koenig.

VOTE: The motion carried unanimously, 5-0.

Therefore, the public hearing was closed at 7:18 PM. Mr. Wadsworth stated that no further public comment would be allowed.

MOTION: Ms. Turcotte made a motion, and Ms. Ladd Fiorini provided a second, for the Planning Board to approve a consolidated Scenic Road and Public Shade Tree hearing to remove two pine trees DBH 24-36 inches at 100 Eagles Nest Road / Koenig.

VOTE: The motion carried unanimously, 5-0.

Mr. Wadsworth directed staff to submit a memorandum to the Town Clerk with tonight's decision.

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

Mr. Wadsworth opened the continued public hearing at 7:20 PM. Mr. Bear recused himself from the public hearing and sat in the public seating section for this hearing. Present for the discussion were the applicant, Atty. Lee Alfieri, and his representative, Mr. Daniel Orwig of Orwig Associates. Also present was Mr. Patrick Brennan of Amory Engineers, the town consulting engineer. Ms. Ladd Fiorini read the correspondence list into the public record:

- PB meeting minutes of 05/11/15
- PB meeting minutes of 06/08/15
- Waiver requests submitted by applicants at PB meeting on 06/08/15
- Mutual extension form signed by L. Alfieri and PB on 06/08/15 extending public hearing date to 07/13/15 and extending decision deadline to 08/31/15
- Draft "Declaration of the 'Littletown Way Homeowners' Association Trust" submitted on 07/01/15 via email
- Emails between L. Alfieri, T. Broadrick, D. Grant and D. Orwig dated 07/01/15 – 07/08/15 re: revised plans
- Emails between L. Alfieri and D. Grant dated 07/10/15 – 07/13/15 re: delay in revised plans
- Email from L. Alfieri to D. Grant dated 07/13/15 and stamped with Town Clerk on 07/14/15 re: Extension of public hearing to 07/27/15
- Proposed Operation and Maintenance Plan (post construction) submitted to Planning Office on 07/20/15
- Email from P. Brennan to D. Grant dated 07/20/15 re: review of O&M plan
- Revised plans submitted on 07/20/15 (later returned to applicant for professional stamping)
- Email from G. Hall to D. Grant dated 07/21/15 re: review of proposed Homeowners' Association Trust
- Emails between D. Grant, P. Brennan, L. Alfieri and D. Orwig dated 07/20/15 – 07/22/15 re: review of revised plans
- Revised plans submitted on 07/27/15
- Email from D. Grant to L. Alfieri dated 07/27/15 re: transmittal of Town Counsel review of proposed Homeowners' Association Trust
- Emails between D. Grant and L. Alfieri dated 07/27/15 re: no quorum for PB meeting
- Emails between G. Hall, D. Grant et. al dated 07/21/15 – 07/27/15 re: Town Counsel further review of proposed Homeowners' Association Trust
- Mutual extension form signed by PB members and L. Alfieri, and stamped with Town Clerk on 07/28/15.

Mr. Wadsworth asked if there were any outstanding issues and Mr. Brennan responded that there were none.

Mr. Wadsworth addressed the proposed Declaration of the "Littletown Way Homeowners' Association Trust" submitted on July 1, 2015. Mr. Uitti expressed a concern that the trust would conduct and retain annual reports of inspections to ensure that the maintenance of rain gardens is up to standards, but would not submit those annual reports to the Planning Board. Atty. Alfieri noted that as drafted there is no requirement to submit annual inspection reports to the Town of Duxbury. Mr. Brennan noted that the Operations & Maintenance Plan does require inspections to be submitted to the Town of Duxbury Department of Public Works. Mr. Uitti asked if the documents could be made consistent, and Atty. Alfieri agreed to do so.

Mr. Wadsworth addressed requested waivers. Board members reviewed waiver requests originally submitted at the Planning Board meeting on June 9, 2015 for sight line distance and rain garden location.

MOTION: Ms. Ladd Fiorini made a motion, and Ms. Turcotte provided a second, regarding the Definitive Subdivision decision for Littletown Way / Nass & Alfieri, to approve a waiver to the Town of Duxbury Subdivision Rules & Regulations dated March 2005 for Section 7.3.5 (b) DESIGN AND CONSTRUCTION STANDARDS - CLEAR SIGHT DISTANCE to waive the requirement for minimum sight distance of 400 feet in either direction on a through street with a posted speed limit of 40 m.p.h., as this project proposes a sight distance in excess of 400 feet to the south and 345 feet to the north in order to accommodate safety concerns of moving the roadway away from an existing abutters' access easement, and in order to minimize tree removal along a scenic route.

VOTE: The motion carried unanimously (4-0).

MOTION: Ms. Ladd Fiorini made a motion, and Ms. Turcotte provided a second, regarding the Definitive Subdivision decision for Littletown Way / Nass & Alfieri, to approve a waiver to the Town of Duxbury Subdivision Rules & Regulations dated March 2005 for Section 7.3.7.6(i) DESIGN AND CONSTRUCTION STANDARDS - STORMWATER – DRAINAGE to waive the requirement for basins and associated outlet aprons and swales to be incorporated into separate land parcels, as this project proposes three rain gardens to be located within the roadway right-of-way and are incorporated

into a separate lot that will be used exclusively for purposes of access, utilities and drainage, and a fourth rain garden will be located on Lot B and will have access through an easement under control of the Homeowners' Association. The Planning Board finds that for a two-lot subdivision the proposed rain gardens will adequately mitigate post-development stormwater runoff in an aesthetically pleasing manner.

VOTE: The motion carried unanimously, 4-0.

Mr. Wadsworth then invited a motion to close the public hearing.

MOTION: Ms. Turcotte made a motion, and Mr. Utti provided a second, to close the public hearing for Littletown Way Definitive Subdivision / Nass & Alfieri.

VOTE: The motion carried unanimously, 4-0.

Therefore, the public hearing closed at 7:37 PM. Mr. Wadsworth stated that no further public comment would be allowed. Board members reviewed a draft decision.

MOTION: Ms. Turcotte made a motion, and Ms. Ladd Fiorini provided a second, to approve the Certificate of Notification for the Littletown Way two-lot Definitive Subdivision off Tremont Street with conditions and waivers as written.

VOTE: The motion carried unanimously, 4-0.

Mr. Wadsworth directed the Planning Board Clerk to sign the final decision, to be notarized and submitted to Town Clerk.

APPROVAL OF PLANNING BOARD COVENANT, PROPOSED HOMEOWNERS' ASSOCIATION, AND ENDORSEMENT OF FINAL APPROVED PLANS FOR DEFINITIVE SUBDIVISION: MCLEAN'S WAY, OFF BOW STREET / REINHALTER

Mr. Bear returned to his seat at the Planning Board. Present for the discussion were the applicant, Dr. Emil Reinhalter, and his representative, Atty. Peter Freeman. The Planning Board had approved this five-lot Definitive Subdivision on May 11, 2015. Board members reviewed a proposed Planning Board Covenant for construction of the roadway.

MOTION: Mr. Bear made a motion, and Ms. Ladd Fiorini provided a second, to approve a Planning Board Covenant dated August 11, 2015 for McLean's Way Definitive Subdivision off Bow Street / Reinhalter.

VOTE: The motion carried unanimously, 5-0.

Board members endorsed the Planning Board Covenant for Dr. Reinhalter to record at the Registry of Deeds.

Board members then addressed the applicant's request for release of Lot 6 on the approved Definitive Subdivision plan. Ms. Grant explained that Lot 6 is a 2,845 square foot piece of land that will be conveyed to the owner of 56 Bow Street.

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MOTION: Mr. Bear made a motion, and Ms. Ladd Fiorini provided a second, to approve a Lot Release for Lot 6 only as shown on the approved plan for McLean's Way Definitive Subdivision off Bow Street / Reinhalter dated February 6, 2015, latest revision May 20, 2015.

VOTE: The motion carried unanimously, 5-0.

Board members signed a Lot Release form that will be recorded at the Registry of Deeds.

Planning Board members then reviewed a proposed "Declaration of Covenants and Restrictions Establishing McLean's Way Homeowners' Association" ("Declaration of Covenants"). The Planning Board had reviewed an earlier version of this document at its meeting on May 11, 2015. A revised document had been submitted on August 5, 2015 and reviewed by Town Counsel for the Town of Duxbury. Mr. Uitti noted that officers vary from the "Declaration of Trust Establishing McLean's Way Homeowners Association Trust" ("Declaration of Trust"). Atty. Freeman reviewed new revisions to the Declaration of Covenants. Mr. Uitti noted that the document appears to retain rights for the developer after lots are sold. Atty. Freeman responded that once the lots are sold the document will be revised in order to revert all rights to the owners. Board members had no further comments on the Declaration of Covenants and the Declaration of Trust documents.

Board members then reviewed a Grant of Easement to McLean's Way Homeowners Association and a Grant of Easement to Town of Duxbury allowing rights to enter Lots 4, 5 and 7 for the purpose of maintaining rain gardens. The easement to the homeowners' association would be in place until the Town of Duxbury accepts McLean's Way as a public road, and then the easement to the Town of Duxbury would be executed. Planning Board members had no issues with the proposed easement documents.

Planning Board members then endorsed mylars and three sets of approved Definitive Subdivision plans, since the appeal deadline had passed. Mr. Wadsworth directed the applicant to contact the Planning Office to find out when all of these signed documents would be ready for release in order to be recorded at the Registry of Deeds, with proof of recording to be submitted to the Planning Office.

ANR PLAN OF LAND: 29 SUMMERHOUSE LANE & 366 BAY ROAD / LANCELOT & 366 BAY ROAD LLC (SHEEHAN)

Present for the discussion were the applicant, Mr. Emmett Sheehan, and his representative, Mr. Mark Casey of South Shore Survey in Kingston. Mr. Casey submitted a revised mylar, stating that the scale bar had been inadvertently omitted from the original mylar submitted to the Planning Office. He explained that a 50/50 land swap was proposed with no change to lot lines.

Mr. Wadsworth noted that there appeared to be no change in nonconformity to either lot.

Ms. Burgess asked if new deeds would indicate the exact location of landmarks, and Mr. Casey responded that new deeds would be prepared that reference the ANR plan.

Mr. Bear expressed concern with a new plan being presented at the Planning Board meeting, noting that the ANR application was submitted on August 10 so there was plenty of time for a corrected plan to be submitted prior to tonight's meeting. He stated that no one has seen the plans submitted tonight, including members of the public who might have been interested in viewing them.

Mr. Sheehan stated that the purpose of the land swap is to allow his property more space for a driveway and his neighbor more backyard space.

MOTION: Ms. Turcotte made a motion, and Mr. Uitti provided a second, to endorse a Plan of Land entitled, Approval Not Required Plan of Land, 29 Summer House Lane & 366 Bay Road, Duxbury, MA," dated August 9, 2015; prepared by J. Lowell Associates, 21 Fish Street, Pembroke, MA 02359; stamped and signed by Lloyd Jeff Lowell, PLS on August 1, 2015; one sheet; scale 1" = 30" as not requiring approval under Subdivision Control Law.

VOTE: The motion carried unanimously, 5-0.

Planning Board members endorsed the mylar and two paper copies of the plan. Mr. Casey signed a mylar release form and took the mylar to be recorded at the Registry of Deeds.

UPDATE ON PLANNING DIRECTOR SEARCH PROCESS

Mr. Bear, who serves on the Planning Director Hiring Team along with Mr. Wadsworth, reported that six applications had been submitted for the position of Planning Director. After screening those applications, the Hiring Team has selected four candidates to be interviewed during the week of August 31. He stated that it is likely that two or three of those candidates will go through the next phase of the interview process, a mock Development Review Team (DRT) meeting. He stated that the Hiring Team would like the Planning Board to suggest an appropriate application that could be used for the mock DRT. Ms. Burgess offered to help select appropriate subdivisions, noting that she is not applying for the full-time position.

Mr. Wadsworth stated that the Planning Board members will be provided a list of questions to ask when the process moves to the next phase of interviews with the Planning Board. Those interviews are scheduled for September 14 and September 21 and will be conducted in open session. He added that the mock DRT will be conducted under open session, so Planning Board members are welcome to attend.

Mr. Bear noted that once the screening has been completed by the Hiring Team, the Planning Board will be the appointing authority for the Planning Director position, subject to background check by the Human Resources Department. Mr. Wadsworth noted that he will be out of town and will not be able to participate in any Hiring Team activities during most of September.

OTHER BUSINESS

Meeting Minutes:

MOTION: Ms. Ladd Fiorini made a motion, and Mr. Uitti provided a second, to approve meeting minutes of June 22, 2015 as written.

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

MOTION: Mr. Bear made a motion, and Mr. Uitti provided a second, to approve meeting minutes of July 13, 2015 as written.

VOTE: The motion carried unanimously, 5-0.

Engineering Invoices:

MOTION: Mr. Uitti made a motion, and Ms. Turcotte provided a second, to approve the following Amory Engineers invoices:

- #14331C dated June 30, 2015 in the amount of \$187.50 for services related to Fisher Ridge
- #14281B dated May 29, 2015 in the amount of \$406.25 for services related to Littletown Way

- #14305B dated June 3, 2015 in the amount of \$531.25 for services related to Littletown Way
- #14331B dated June 30, 2015 in the amount of \$93.75 for services related to Littletown Way.

VOTE: The motion carried unanimously, 5-0.

ADJOURNMENT

The Planning Board meeting adjourned at 8:43 PM. The next Planning Board meeting will take place on Monday, September 14, 2015 at 7:00 PM at Duxbury Town Hall, Small Conference Room, 878 Tremont Street.

MATERIALS REVIEWED

Consolidated Public Hearing, Duxbury Planning Board and Tree Warden: 100 Eagles Nest Road / Koenig

- Special permit application submitted on 07/21/15
- Public hearing notice
- Vision GIS map, aerial photo and Assessor's property card

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

- Consulting engineer review letters dated 05/27/15 and (via email) 07/22/15
- Stamped plans submitted 07/27/15
- Proposed Operation and Maintenance Plan submitted on 07/20/15
- Email from P. Brennan dated 07/20/15 re: Review of O&M Plan
- Waiver requests submitted at PB meeting on 06/08/15
- Draft Certificate of Notification
- Proposed Declaration of the "Littletown Way Homeowners' Association Trust" submitted on 07/01/15
- Emails between G. Hall, D. Grant and L. Alfieri dated 07/16/15 – 07/27/15 re: Town Counsel review of proposed Declaration of the 'Littletown Way Homeowners' Association Trust' document

Approval of Planning Board Covenant, Proposed Homeowners' Association, and Endorsement of Final Approved Plans for Definitive Subdivision: McLean's Way, off Bow Street / Reinhalter

- Certificate of Notification dated 05/22/15
- Proposed Declaration of Trust Establishing McLean's Way Homeowners Association Trust
- Proposed Declaration of Covenants and Restrictions Establishing McLean's Way Homeowners Association
- Proposed Grant of Easement to McLean's Way Homeowners Association for Lots 4, 5 and 7
- Proposed Grant of Easement to Town of Duxbury for Lots 4, 5 and 7
- Planning Board Covenant

ANR Plan of Land: 29 Summerhouse Lane & 366 Bay Road / Lancelot & 366 Bay Road LLC (Sheehan)

- ANR application and plan submitted on 08/10/15
- Vision GIS map, aerial photo and Assessor's property card

Other Business

- Minutes of 06/22/15
- Minutes of 07/13/15
- Amory Engineers Invoice #14331C dated 06/30/15 re: Fisher Ridge
- Amory Engineers Invoice #14281B dated 05/15/15 re: Littletown Way
- Amory Engineers Invoice #14305B dated 06/03/15 re: Littletown Way
- Amory Engineers Invoice #14331B dated 06/30/15 re: Littletown Way
- MassHousing notice received 07/29/15 re: Island Creek 40B development
- Construction Cost Estimates for July 2015
- Town of Plymouth public hearing notice for ZBL amendment re: Small Scale and Commercial Scale Solar Bylaw
- PB Members "In the News"