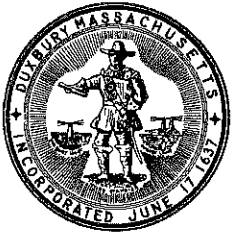


Approved 01/25/16

TOWN CLERK
2016 JAN 26 AM 10:59
DUXBURY, MASS.



Town of Duxbury Massachusetts Planning Board

Minutes 12/14/15

The Planning Board met on Monday, December 14, 2015 at 7:00 PM at the Duxbury Town Hall, Small Conference Room.

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

Absent: Jennifer Turcotte.

Staff: Valerie Massard, Planning Director; and Diane Grant, Administrative Assistant.

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

OPEN FORUM

Zoning Bylaw Review Committee (ZBRC): Mr. Casagrande reported that the ZBRC is expected to meet tomorrow night to finalize zoning articles to be submitted for Annual Town Meeting 2016.

Community Preservation Committee (CPC): Ms. Ladd Fiorini reported that only two articles are going forward for CPC funding at Annual Town Meeting 2016: binding historical records for the Town Clerk's office, and unexpected legal fees for the Merry properties that the town voted to purchase at Annual Town Meeting 2015.

CONSOLIDATED PUBLIC HEARING, DUXBURY PLANNING BOARD AND TREE WARDEN: STANDISH STREET / MCARDLE

Mr. Wadsworth opened the public hearing at 7:06 PM. Ms. Ladd Fiorini read the public hearing notice.

Ms. Massard stated that the applicant has requested to continue the public hearing because there is a possibility that more trees may need to be added to the list of trees to be removed. Once a new plan is submitted, the public hearing will be re-advertised and mailed to direct abutters. She advised the Planning Board members to continue the public hearing to a date and time certain.

MOTION: Ms. Ladd Fiorini made a motion, and Mr. Glennon provided a second, to continue the consolidated Scenic Road and Shade Tree public hearing for Standish Street / McArdle to Monday, January 11, 2016 at 7:05 PM.

VOTE: The motion carried unanimously, 6-0.

AS-BUILT REVIEW: SHANTUM LANE DEFINITIVE SUBDIVISION / PONTIFF

Ms. Grant distributed copies of the As-Built plan submitted on November 23, 2015 and Planning Board members reviewed an email dated November 24, 2015 from the consulting engineer, Mr. Patrick Brennan of Amory Engineers, noting three items missing from the As-Built checklist. Ms. Massard stated that the applicants have been notified and these are minor changes.

Ms. Karin Fekete of 79 Myles View Drive, an abutter to the subdivision, asked if she could speak regarding issues she is having with the developer. Mr. Glennon noted that several abutters were present and suggested that any issues should be brought forward that could be addressed in a revised As-Built plan.

Ms. Fekete stated that she is concerned that the developer, Mr. Eric Pontiff, has constructed a driveway over her property line. In addition, she believes that he threw away a basketball hoop from her property. Ms. Massard offered to go to the site with the consulting engineer and discuss any issues with abutters and report back at the next Planning Board meeting.

MOTION: Ms. Ladd Fiorini made a motion, and Mr. Glennon provided a second, to continue the As-Built review for Shantum Lane to January 11, 2016, pending resolution of any lot line issues and pending submittal of a revised As-Built plans that address concerns raised by Amory Engineers email dated November 24, 2015.

VOTE: The motion carried unanimously, 6-0.

AS-BUILT REVIEW: GUDRUN WAY DEFINITIVE SUBDIVISION, OFF FRANKLIN STREET / BARTLETT

No one was present to represent the applicant. Ms. Grant explained that an As-Built plan had been submitted to the Planning Office on December 7, 2015. A subsequent review by Mr. Patrick Brennan of Amory Engineers via email on December 8, 2015 indicated nine potential issues with the As-Built plan. The applicant's engineer, Mr. Paul Brogna of Seacoast Engineering, submitted revised plans just today and Mr. Brennan had not had time to review them. She also explained that the applicant has stated that the performance bond needs to be released before the end of the year.

Ms. Massard suggested that the Planning Board consider a conditional approval subject to her review of the latest As-Built plans. Mr. Wadsworth stated that Planning Board approval could be subject to his review as well.

MOTION: Mr. Uitti made a motion, and Mr. Bear provided a second, to approve an As-Built plan for Gudrun Way entitled "As-Built Plan for 200 Franklin Street, Duxbury, MA 02332" dated December 7, 2015; latest revision December 14, 2015; drawn by Seacoast Engineering Company, Duxbury, MA; and to release a performance bond for Gudrun Way Definitive Subdivision, both conditionally based on satisfactory review of those plans by the Planning Director, Planning Board Chairman, and consulting engineer that the plans meet all As-Built requirements.

VOTE: The motion carried unanimously, 6-0.

TOWN CLERK
2016 JAN 26 AM 10:59
DUXBURY, MASS.

**DISCUSSION WITH HISTORICAL COMMISSION RE: PROPOSED DEMOLITION
DELAY BYLAW REVISIONS**

Present for the discussion from the Historical Commission were Mr. Terry Vose, chairman; Mr. Tag Carpenter, vice-chairman; and new member Mr. Mark Barry. Ms. Massard distributed the latest version of the draft warrant article with Town Counsel comments. Mr. Wadsworth stated that the Planning Board will hold a public hearing on the proposed article so will not go into great detail for the purposes of tonight's discussion but the Planning Board may raise issues and the Historical Commission can decide whether to go forward with the proposed revisions.

Mr. Vose introduced Mr. Carpenter, noting that Mr. Carpenter is mainly responsible for the proposed revisions that the Historical Commission has worked on for two years. Mr. Bear asked if the main thrust of the revision is that a certificate would be issued rather than a permit.

Mr. Carpenter stated that the reason for the re-write is to strengthen the Demolition Delay bylaw, noting that there are also people who may want to abolish or lessen it. He stated that the current six-month demolition delay does not seem to have an impact on applicants, and so the Historical Commission is now proposing a twelve-month delay. He stated that it is more of a policy change than a clean-up. He stated that transferability changes with the new bylaw and the procedures are streamlined. He thanked Ms. Massard for her help in reviewing the proposed bylaw. He noted that Town Counsel had many comments and had also removed one major revision without comment.

Ms. Massard stated that there may not be time to incorporate changes suggested by Town Counsel or the Planning Board. Mr. Wadsworth noted that it could be difficult to present a viable bylaw if Town Counsel had issues with it. Mr. Carpenter stated that the Historical Commission is scheduled to meet on Wednesday night, December 16, 2015 and could submit it to Ms. Massard first thing the next morning.

Mr. Bear asked about the Historical Commission's success rate with the existing six-month demolition delay, and Mr. Vose replied that only about ten percent were able to avoid complete demolition. Mr. Casagrande stated that there may be cases that are referred to the Historical Commission for demolition delay when the applicant has no intent to change the original portion of a dwelling structure. Mr. Vose noted that the Historical Commission does not have enforcement authority. However, a permit is required when an applicant proposes to elevate a dwelling structure. Mr. Casagrande stated that he had gone through the demolition delay process when he purchased his current home and the process was difficult and confusing. Mr. Vose stated that the new bylaw simplifies the process.

Mr. Casagrande asked if Town Counsel differentiated between a permit and a certificate, and Mr. Carpenter responded that a permit can be granted by the Building Department and a certificate can be granted by the Historical Commission.

Mr. Wadsworth suggested that minor issues could be amended on Annual Town Meeting floor, but major revisions might be a "kiss of death." He cautioned that the Historical Commission needs to have everything lined up and ready for approval. He suggested that the Historical Commission consider removing procedures from the Zoning Bylaws and instead adopt Rules & Regulations. He noted that Rules & Regulations could be revised in the future by the Historical Commission if legally advertised.

Mr. Casagrande noted two potential stumbling blocks to the new bylaw: the twelve-month demolition delay and the lack of transferability. Mr. Carpenter stated that non-transferability could benefit a subsequent owner. Mr. Casagrande noted that it would re-start the clock on the timing of the delay. Mr. Carpenter stated that the point is to discourage the demolition of historic structures.

Ms. Massard noted that Mr. Casagrande is speaking from a similar point of view as Town Counsel. She asked that the presentation be more specific about how the proposed new bylaw advances the intent of trying to preserve historic structures. Mr. Barry noted that the biggest impact may be on commercial business owners and destroying historically significant structures could be detrimental to the character of the town. Mr. Casagrande stated that there are a limited number of historical commercial structures.

Mr. Wadsworth stated that a twelve-month demolition delay could be a burden on property owners. He cautioned that the Historical Commission should be prepared with arguments that would convince Annual Town Meeting to approve the proposals. He noted that there may be amendments from the floor of Annual Town Meeting to change the delay from twelve months back to the current six months.

Mr. Bear noted that the proposed bylaw references a Building Commissioner, asking if this is accurate phrasing, and Ms. Massard stated that the language is consistent with state building code.

Mr. Uitti stated that he previously served on the Historic Commission with Mr. Vose and Mr. Carpenter and praised their work especially on the streamlined procedures. He stated a concern with the twelve-month delay, the lack of transferability, and the allowance for demolition by neglect may promote "neighbor police" and may be a tough sell. He stated that instances like this may be rare. He suggested that the Historical Commission may want to give up the non-transferability policy and instead aim for the twelve-month delay, or at least propose changes in stages.

Mr. Wadsworth thanked the Historical Commission for attending tonight's meeting, noting that they would meet again for the zoning article public hearing. He stated that the Planning Board would make its recommendation after the public hearing.

PLANNING STAFF UPDATE

Proposed Zoning Articles for Town Meeting 2016

Planning Board members reviewed draft zoning articles. Mr. Casagrande and Mr. Wadsworth, who both serve on the Zoning Bylaw Review Committee (ZBRC), helped to explain the three ZBRC proposed articles.

Nonconforming Structures (ZBRC): Mr. Casagrande stated that he believes this article is nearly finalized. Mr. Glennon noted that in the draft language presented for tonight's meeting, setback nonconformities do not appear to be considered. Mr. Casagrande stated that proposed additions would need to be outside the standard setbacks. If any work is proposed within a setback, a special permit would be required. He noted that all proposed changes in a Neighborhood Business District would require a special permit.

Residential Conservation Clusters (ZBRC): Mr. Wadsworth explained that the proposal is to remove mandatory findings in favor of Residential Conservation Clusters, and instead allowing the Planning Board the option in favor of standard grid subdivisions, which would bring the bylaw into conformance with state law. Mr. Casagrande noted that next year the ZBRC may propose additional changes to this bylaw.

Planned Developments (ZBRC): Mr. Casagrande noted that the Inclusionary Housing Bylaw has been moved from the RCC section to the Planned Development section of Zoning Bylaws. Mr. Glennon noted this is an administrative change, and Mr. Wadsworth noted that there were no changes to the bylaw itself.

Affordable Housing Bylaw (DAHT): Mr. Casagrande noted that this proposed Zoning Bylaw amendment did not go through the ZBRC. Ms. Massard reported that she had done a preliminary map that shows approximately 1,000 parcels fall within the 5,000 -10,000 square foot lot area range and that this does not

TOWN CLERK
2016 JAN 26 AM 10:59
DUXBURY, MASS.

exclude land that may otherwise have burdens such as existing dwellings or combined ownership. Mr. Wadsworth noted that the list includes properties that may have wetlands or septic issues. Mr. Casagrande asked if affordable housing could be built on a 5,000 square foot lot, and Mr. Wadsworth replied that he is a member of the Affordable Housing Trust and he does not believe it would be economically feasible. Mr. Casagrande speculated that a charitable foundation may be in the position to take advantage of the proposed bylaw, and Ms. Massard stated that it could be done through the Local Initiative Program as a special permit outside of the local bylaw under Chapter 40B.

Mr. Casagrande asked if other changes were proposed, and Mr. Wadsworth responded that it would be slightly easier to administer. Ms. Massard added that the proposed changes provide some flexibility for the Planning Board to approve waivers. Mr. Glennon noted that the Town of Duxbury would have the right of first refusal if the property went up for sale, and asked why the town would consider purchasing a property at market value. Ms. Massard noted that the property must remain affordable. She also noted that qualified homebuyers' income levels under the state guidelines require the use of Boston's regional income, which does not reflect local income levels.

Flood Insurance Rate Maps (BOS / Town Manager): Ms. Massard stated that the current Zoning Bylaws do not reflect the latest Annual Town Meeting vote in 2012 adopting FIRM maps. The Town of Duxbury is appealing proposed maps issued in 2013. The proposed amendments would reflect preliminary FIRM maps dated November 2015 as required by FEMA to maintain local flood insurance; however these maps are still being questioned by the Town of Duxbury. FEMA will respond on their position by January 6, 2016, according to state officials.

Other Non-Zoning Articles for Annual Town Meeting 2016

Tree Preservation Bylaw: Mr. Wadsworth noted that this is proposed as a General Bylaw so it will not require a public hearing. Ms. Massard noted that there are no changes from last year's proposal that was withdrawn by the Open Space Committee, except that the Planning Director would be responsible for enforcement. She reported that she has told the Open Space Committee that she would not support the proposed bylaw as written and neither would the Department of Public Works Director. She stated that she had met with the Open Space Committee and offered to work with them on finding a more workable solution to preserving trees on private properties.

Sawmill Road Street Acceptance: Mr. Wadsworth noted that the property owners on Sawmill Road have filed a citizen petition to get the Town of Duxbury to take title to their street. He stated that he did not know if the road met current standards. He noted that the process goes through the Board of Selectmen and they may want the Planning Board's opinion. Ms. Massard noted that the petitioners are preparing a street acceptance plan which must be complete prior to petitioning for street acceptance. She reported that she had advised the petitioners' representative that the Planning Board may choose to not support the petition. Mr. Scott Lambiase, Director of Municipal Services, had told her that the road may have been constructed according to Subdivision Rules and Regulations.

Hall's Corner Consultant: Mr. Wadsworth asked about the proposed \$10,000.00 amount for hiring consultant, and Ms. Massard replied that she researched and found that other towns had allotted a similar amount for projects like this.

Hall's Corner Survey: Ms. Massard noted that the proposed amount is \$8,000.00 based on a ballpark estimate of \$7,000.00 plus consideration for the cost of installing bounds.

Comprehensive Plan Update Funding: Ms. Massard distributed a handout with proposed article language and an explanation with recommendations and detailed process descriptions, including a spreadsheet on the status

TOWN CLERK
2016 JAN 26 AM 10:59
DUXBURY MASS

of Comprehensive Plans in comparable towns and detailed demographics comparisons. She noted that better land use technology is currently available, and improved technology also allows for better ways to gather public input. She recommended a four-phase process for updating the Comprehensive Plan:

- Assessment (appointing an Advisory Committee and gathering information)
- Technical Assistance (RFPs, funding if needed)
- Public Input & Public Presentations (2-3 facilitated workshops)
- Plan Completion (adopting draft document).

Ms. Massard noted that other towns appear to be using a combination of consultants, municipal staff, and other community plans. She noted that although funding through the DLTA (District Local Technical Assistance) program offered by regional planning agencies has just been announced, the Town of Duxbury is not yet ready to apply. She recommended a \$10,000.00 cost to hire a consultant that would help guide the initial Comprehensive Plan process.

Mr. Uitti thanked Ms. Massard for her thorough written explanation and recommendations. Mr. Casagrande noted that he could not see asking the town for \$120,000.00 like other towns have spent on hiring consultants. He noted that residents may indicate that no big changes are needed in the town and then the Planning Board could choose to update the Comprehensive Plan in-house.

Municipal Aggregation: Ms. Massard stated that another regional planning agency gathered 20 communities to purchase energy and the average household saved up to \$100.00 per year. She noted that she would be attending a workshop on Friday and will find out more.

OTHER BUSINESS

Meeting Minutes:

MOTION: Mr. Glennon made a motion, and Mr. Casagrande provided a second, to approve meeting minutes of November 9, 2015 and November 23, 2015 as amended.

VOTE: The motion carried 4-0-2, with Ms. Ladd Fiorini and Mr. Uitti abstaining.

Discussion of Planning Board Meeting Schedule for 2016: Mr. Wadsworth deferred discussion until the next Planning Board meeting because a full board was not present for the discussion.

ADJOURNMENT

Planning Board meeting adjourned at 9:20 PM. The next Planning Board meeting will take place on Monday, January 11, 2016 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: Standish Street / McArdle

- Public hearing notice stamped with Town Clerk on 11/23/15
- Application and plan stamped with Town Clerk on 11/23/15
- Duxbury Clipper article dated 11/11/15

As-Built Review: Shantum Lane Definitive Subdivision / Pontiff

- Cover letter from Grady Consulting dated 11/20/15 re: As-Built review
- Emails between V. Massard and P. Brennan dated 11/24/15

TOWN CLERK
2016 JAN 26 AM 10:59
DUXBURY, MASS.

PLANNING BOARD MINUTES

Date: December 14, 2015

Page 7 of 7

Approved 01/25/16

As-Built Review and Request for Performance Bond Release: Gudrun Way Definitive Subdivision / Bartlett

- Emails between D. Bartlett and V. Massard dated 11/30/15
- Email from P. Brennan dated 12/08/15 with As-Built check list

Discussion with Historical Commission re: Proposed Demolition Delay Bylaw Revisions

- Proposed Zoning Bylaw as submitted to the Planning Office on 11/30/15
- Email from T. Vose to BOS dated 11/25/15

Planning Staff Update

- Nonconforming Uses and Structures (ZBRC) – *draft dated 12/08/15*
- Planned Developments (ZBRC) – *draft dated 12/08/15*
- Odd Lot Zoning (DAHT)
- FEMA Map Adoption (BOS / Town Manager)
- Tree Protection and Preservation Bylaw (Open Space Committee)
- Hall's Corner consultant (EAC)
- Hall's Corner Survey (PB)
- Municipal Aggregation (BOS / Town Manager)

Other Business

- PB minutes of 11/09/15
- PB minutes of 11/23/15
- Construction Cost Estimates for November 2015

Distributed at Meeting

- Email from W. McArdle dated 12/09/15 re: Tree hearing request for postponement
- Emails between P. Brennan and P. Brogna dated 12/08/15 – 12/10/15 re: Gudrun Way As-Built plans
- Emails between D. Grant and P. Brennan dated 12/14/15 re: Gudrun Way As-Built and performance bond
- Memo from T. Broadrick to S. Kelley dated 03/24/15 re: Gudrun Way minor modification
- Email from J. Barrett dated 12/08/15 re: ZBL Section 401.2 and ZBL Section 718
- Proposed Demolition Delay article with Town Counsel comments
- Untitled report by V. Massard on Comprehensive Plan funding

TOWN CLERK
2016 JAN 26 AM 10:59
DUXBURY, MASS.