



Town of Duxbury Massachusetts Planning Board

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DUXBURY, MASS.

Minutes 02/24/16

The Planning Board met on Monday, February 24, 2016 at 7:00 PM at the Duxbury Town Hall, Mural Room.

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

Absent: John Bear and David Uitti.

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

Mr. Wadsworth called the meeting to order at 7:02 PM.

OPEN FORUM

PAC-TV: Mr. Wadsworth read an announcement regarding the broadcast of Planning Board meetings on local cable television. Meetings will be broadcast live on Comcast Channel 15 and Verizon Channel 39, rebroadcast on Sundays at 8:00 AM and 5:00 PM, and available on the PAC-TV web site.

ADMINISTRATIVE NOTES

Request for Release of Lots Under Covenant and Escrow Release: Shantum Lane / Pontiff:

MOTION: Ms. Turcotte made a motion, and Mr. Casagrande provided a second, to release Lot A and Lot B in the Shantum Lane Definitive Subdivision, with proof of recording to be submitted to the Planning Office.

VOTE: The motion carried unanimously, 5-0.

MOTION: Ms. Turcotte made a motion, and Mr. Casagrande provided a second, to close the escrow account for Pontiff / Myles View Drive, including the balance of all funds deposited and interest accrued, with funds to be released to Mr. Eric Pontiff at the address on record.

VOTE: The motion carried unanimously, 5-0.

Escrow Release: Cape Verde Terrace / Driver:

MOTION: Ms. Turcotte made a motion, and Mr. Casagrande provided a second, to close the escrow account for Cape Verde Terrace / Driver, including all funds deposited and interest accrued, with funds to be released to the Estate of Doreen Driver at the address on record.

VOTE: The motion carried unanimously, 5-0.

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

ADMINISTRATIVE SITE PLAN REVIEW: MILLBROOK MARKETPLACE, 277 & 285 SAINT GEORGE STREET & 30 RAILROAD AVENUE / JULIANO

Planning Board members reviewed the application and materials submitted for this proposal to configure six one-bedroom apartments above the existing retail space, with no change in building footprint or number of parking spaces. Present for the discussion was the applicant, Mr. Michael Juliano, along with Mr. Dermot Loftus and their representative, Mr. Freeman Boynton of Duxbury Construction. Mr. Wadsworth invited Mr. Juliano to present his plans.

Mr. Juliano stated that he is the proposed purchaser of the property which was divided into four ANR lots through the Planning Board in the past year. The current owner is marketing the lots as condominiums with multiple owners. Mr. Juliano stated that he would like to re-gain control over the lots as a single owner and would like to make changes over two phases. Phase 1 would work toward restoring the existing building structures, adding apartments and keeping the existing retail operations. Phase 2 of the project would expand the parking and add buildings.

Mr. Juliano stated that tonight's review under Administrative Site Plan Review and referral on special permits through the Zoning Board of Appeals is to create the apartments and open a sit-down restaurant in the former Yo Taco building. He stated that no other changes are proposed other than restoring the existing buildings. He stated that he had received a negative determination from the Conservation Commission, so he does not need to file a Notice of Intent.

Ms. Massard asked if Mr. Juliano intends to repave the parking lot, and Mr. Juliano replied that he does. Mr. Glennon asked if the parking is paved now, and Mr. Juliano responded that a portion is paved. Mr. Glennon asked if the existing parking on the street would remain, and Mr. Juliano responded that it would.

Ms. Massard reported that the Sidewalk and Bikepath Committee would like to extend a sidewalk along Railroad Avenue. She stated that at a recent Development Review Team meeting on Mr. Juliano's project, the Fire Department expressed concern with pedestrian safety. She suggested that perhaps in the Phase 2 the overall parking and travel lanes may need to be re-designed.

Mr. Glennon asked where excess snow would be stored after plowing, and Mr. Boynton replied that it would be in the back of the buildings where it is now. Mr. Wadsworth noted that snow piles could push right up to the edge of the parking lot, and Mr. Boynton agreed that it occupied parking spaces after last winter's snowstorms. Mr. Casagrande asked if the snow could be moved closer to the open space behind the buildings, and Mr. Boynton replied that there is a fence now but he could look into moving it. Mr. Casagrande asked if there is plenty of snow storage area on the Railroad Avenue side of the property, and Mr. Boynton replied that there is.

Mr. Wadsworth asked about stormwater management, noting that the Planning Board would like to make sure there is enough land to take up and treat stormwater, and Mr. Boynton responded that a stormwater plan is in place.

Ms. Marjorie Mayo of 291 Saint George Street stated that as an abutter she is also concerned about stormwater, noting that the creek behind the buildings runs to the Bluefish River. She stated that she would also like to ensure that her mailbox and driveway are not obstructed from the snow piling. She stated that she has a right of way on Saint George Street and at the top of the parking lot. Ms. Massard stated that the decision could reflect a condition that addresses Ms. Mayo's concerns. Mr. Juliano stated that he had no issue with that condition.

Mr. Wadsworth asked about handicap parking, and Mr. Juliano stated that there is none now but it will be added and marked with proper signage. Ms. Turcotte noted that three handicap spaces are shown on the site plan and only two are required.

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Ms. Mayo asked where apartment tenants would park, and Mr. Juliano replied that open parking is proposed, not designated parking. He noted that 46 parking spaces are required and 56 are proposed. Mr. Wadsworth noted that the apartments would have a symbiotic relationship with the businesses since the businesses would be open during the day when the apartment tenants would be at work. Mr. Juliano noted that twelve spaces would be available for the six apartments. Ms. Turcotte stated that she liked the idea of a mixed use.

Mr. Wadsworth asked Mr. Loftus to describe his proposed restaurant. Mr. Loftus stated that the restaurant would be located in the former Yo Taco building. Mr. Juliano is renovating the exterior and Mr. Loftus would be renovating the interior and running the dining establishment. Mr. Juliano noted that he has accommodated the parking to the proposed use. Mr. Casagrande asked if there is room to expand parking in the future, and Mr. Juliano stated that it is his intention to do so, working around the existing wetlands.

Mr. Wadsworth asked if parking would be allowed along Railroad Avenue, and Mr. Juliano responded that it would be landscaped and no parking would be allowed there. He stated that the restaurant entrance will be on the south side of the building rather than along Railroad Avenue, closer to the handicap parking space.

Mr. Wadsworth asked if deliveries would be at the rear of the building, and Mr. Juliano replied that it would. Mr. Wadsworth asked if the loading area would be marked and Mr. Juliano replied that it would. Mr. Casagrande asked if there would be enough room for a loading area behind the businesses along Saint George Street, and Mr. Juliano replied that there is.

Mr. Wadsworth asked about the travel lanes at the proposed restaurant, and Mr. Juliano responded that the existing two entrances would remain and both would remain two-way traffic.

Mr. Glennon asked about a deck on the back side of the Yo Taco building and Mr. Juliano replied that the deck would be removed.

Ms. Lorrie Hall of 175 Abrams Hill asked about the proposed exterior façade, and Mr. Juliano replied that the buildings will get new windows, doors, siding, roof and trim work. Mr. Wadsworth noted that those are ZBA issues.

Ms. Hall stated that she is concerned with the septic requirements and asked if the applicant has considered porous pavement. Mr. Juliano responded that he has obtained Title 5 approval with an observation hole witnessed by the Board of Health. Mr. Boynton added that he is working with the Health Agent, Ms. Tracy Mayo, and it may be required in Phase 2 to use porous pavement.

Mr. Michael Walker of 86 Alden Street, who operates Benchwarmer Sub Shop at that location, stated that while he is excited about the renovation of the businesses, he is concerned with the safety of children walking along Railroad Avenue after school. He stated that he would like to promote the sidewalk project proposed by the Sidewalk & Bikepath Committee. Ms. Massard stated that the proposed sidewalk needs further review.

Mr. Wadsworth asked if Ms. Massard is comfortable with the amount of parking proposed on the site, and Ms. Massard responded that she is comfortable with it and noted that the buildings would have commercial use by right if the residential plan does not work out.

Mr. Wadsworth expressed concern with the parking space at the corner of Railroad Avenue and Saint George Street and asked Mr. Juliano what he would do to keep vehicles from cutting the corner. Mr. Juliano stated that the parking space is part of the character of the existing area and it does serve to slow down vehicles turning from Saint George Street onto Railroad Avenue. Mr. Casagrande noted that the parking space ends at a crosswalk on Saint George Street.

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Ms. Jessica Williams of 1243 Tremont Street expressed her concern with pedestrian safety of children before and after school. Mr. Wadsworth noted that the Planning Board typically does not require a sidewalk from business owners. Mr. Casagrande stated that this is a typical issue with Neighborhood Business Districts in town and noted that it may be more realistic to put in a sidewalk on the opposite side of Railroad Avenue.

Mr. Mike Walker, who runs Benchwarmer's Sub Shop, asked for Planning Board feedback on the need for sidewalks. Ms. Massard stated that she will be meeting with the Sidewalk and Bikepath Committee next week and will be helping them look into potential sources of funding. Mr. Glennon stated that the Planning Board would like to see sidewalks in the area. Ms. Williams stated that more crosswalks and signage would help in the interim. Mr. Juliano stated that he is 100 percent in favor of sidewalks and will assist in any way he can, noting that it may be possible to incorporate in Phase 2 plans.

Ms. Massard reviewed some of the conditions that would be added to the decision to be drafted, including stormwater management, lighting, and snow removal. Mr. Wadsworth stated that he would like to see a designated snow storage area.

MOTION: Mr. Glennon made a motion, and Ms. Ladd Fiorini provided a second, to approve an Administrative Site Plan Review for Millbrook Marketplace, 277 & 285 Saint George Street and 30 Railroad Avenue / Juliano, based on a plan submitted to the Planning Board entitled, "Proposed Additions in Duxbury, Juliano Enterprises, 30 Railroad Ave.," dated January 28, 2016, prepared by Duxbury Construction Company, Duxbury, MA, stamped by Sheldon Robert Phinney, RPLS, and direct staff to provide a draft decision for review at the next available Planning Board meeting.

VOTE: The motion carried unanimously, 5-0.

ZBA REFERRAL, SPECIAL PERMIT: MILLBROOK MARKETPLACE, 30 RAILROAD AVENUE / LOFTUS

Planning Board members reviewed this special permit application for a change in use from a take-out food establishment to a 49-seat dine-in restaurant, an application related to the Administrative Site Plan Review that the Planning Board had just approved.

MOTION: Mr. Glennon made a motion, and Mr. Casagrande provided a second, to recommend APPROVAL to the Zoning Board of Appeals for Special Permit #2016-3, 30 Railroad Avenue / Loftus to change the use of an existing structure from take-out food service to a 49-seat dine-in restaurant..

VOTE: The motion carried unanimously, 5-0.

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ZBA REFERRAL, SPECIAL PERMIT: MILLBROOK MARKETPLACE, 277 & 285 SAINT GEORGE STREET / JULIANO

Planning Board members reviewed this special permit application to configure six one-bedroom apartments above an existing retail space in a Neighborhood Business District, an application related to the Administrative Site Plan Review that the Planning Board had just approved.

MOTION: Mr. Glennon made a motion, and Mr. Casagrande provided a second, to recommend APPROVAL to the Zoning Board of Appeals for Special Permit #2016-4, 277 & 285 Saint George Street / Juliano to configure six one-bedroom apartments above the existing retail space in the Neighborhood Business District.

VOTE: The motion carried unanimously, 5-0.

ZBA REFERRAL, SPECIAL PERMIT AMENDMENT: 1508 TREMONT STREET / E AND D, LLC (CADETE)

Ms. Massard requested that the Planning Board take this agenda item out of order. Present for the discussion were the applicant, Mr. John Cadete of Cadete Enterprises, and his representatives, Atty. Robert W. Galvin and Mr. Jack O'Leary of Site Tec Environmental. Ms. Massard explained that the building was formerly a pizzeria and before that it was a bank. The applicant proposes a Dunkin Donuts with no drive-through, although there could be a drive-through proposed at some point in the future.

Atty. Galvin introduced the site, noting that a special permit was first issued in 1988 as a bank and the building footprint has remained the same. It was permitted as a restaurant through a 1990 amendment that established the business hours from 11:00 AM to 10:00 PM. The proposed hours of operation would change because 80 percent of Dunkin Donuts business takes place before 11:00 AM. The business would be open seven days a week and the proposed hours of operation would be 5:00 AM to 11:00 PM, although the closing time will be discussed with the Zoning Board of Appeals and may change to an earlier time.

Atty. Galvin stated that the owner, Mr. Cadete, owns several other Dunkin Donuts in the area and believes that there is enough business to justify this location. The building is currently under common ownership, and the plan is to break it into condominiums based on usage. Atty. Galvin stated that the former business had a 20-seat limit inside now and Mr. Cadete is happy to keep that limit.

Ms. Ladd Fiorini recalled that several years ago there was a lot of discussion when the Dunkin Donuts was proposed at Hall's Corner, especially regarding the awnings. Atty. Galvin stated that Mr. Cadete is the owner of that Dunkin Donuts and does not propose any changes at this new location other than signage. Ms. Massard distributed photo renderings of the proposed exterior elevations. Mr. Cadete stated that he would be happy to comply with any color changes that the Town of Duxbury may want.

Mr. Glennon asked about the parking, and Atty. Galvin responded that there would be common parking rather than parking designated for each business. Mr. Glennon noted that there might be a significant change in traffic with a change from a pizza place to a Dunkin Donuts, and asked how that might impact the other businesses at that location. Atty. Galvin stated that most of the other businesses would not be open as early as the Dunkin Donuts, which is busiest before 11:00 AM. He did say that Bo-Tes in the same building is open early and does serve sandwiches and coffee. He stated that he did not believe that the Dunkin Donuts would detract from any of its business because it is most popular for lunch. Mr. Cadete added that Dunkin Donuts does not do good lunch business.

Mr. Casagrande confirmed that Mr. Cadete proposes to keep the two entrances to the building: one from Enterprise Street and the other from Route 139.

Mr. Wadsworth noted that the Planning Board did not receive a site plan for review, and asked where the loading zone would be located. Atty. Galvin stated that once a week an 18-wheeler would unload outside prime hours. Mr. O'Leary, the applicant's engineer, stated that the trucks would enter on Route 139, unload for approximately 15 minutes, then leave out the Enterprise Street exit. Mr. Wadsworth noted that typically loading zones are provided in a designated area separate from customer parking.

Mr. Glennon asked if a traffic study had been performed, and Mr. O'Leary replied that it had not been done yet. He estimated that 80 percent of the customers would be pass-by traffic that stops on their way to another destination. Atty. Galvin stated that he is not sure they are required to do a traffic study.

Ms. Massard summarized that the special permit is for the same use but with a change in the hours of operation. A drive-through is not proposed at this time. She noted that the parking appears to be adequate. A

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truck will unload once per week for a short time. Signage and traffic may be issues that the Zoning Board of Appeals may need to address in the future.

MOTION: Mr. Glennon made a motion, and Ms. Turcotte provided a second, to DEFER JUDGMENT to the Zoning Board of Appeals for Special Permit #2016-6, an amendment to Special Permit #90-25, in order to transfer existing permits to Cadete Enterprises, Inc. and to modify the hours of operation. The Planning Board encourages careful review of the traffic patterns, parking/handicap parking, loading, trash receptacle and signage impacts of the proposed use if the permit is transferred. The Planning Board notes that a traffic study would allow for more careful review of potential traffic impacts to the neighborhood.

VOTE: The motion carried unanimously, 5-0.

CONTINUED PUBLIC HEARING FOR ANNUAL TOWN MEETING 2016 ZONING ARTICLE: PROPOSED REPLACEMENT OF DEMOLITION DELAY BYLAW (HISTORICAL COMMISSION)

Mr. Wadsworth opened the continued public hearing at 8:28 PM. Ms. Ladd Fiorini noted that there was no new correspondence for the public record.

Ms. Massard reported that the Historical Commission will ask for this article to be indefinitely postponed. She stated that staff will continue to work with the Historical Commission members to create a workable bylaw.

MOTION: Ms. Ladd Fiorini made a motion, and Ms. Turcotte provided a second, to close the public hearing for an Annual Town Meeting zoning article proposed by the Historical Commission to replace the Demolition Delay Bylaw.

VOTE: The motion carried unanimously, 5-0.

Therefore the public hearing closed at 8:29 PM.

MOTION: Ms. Ladd Fiorini made a motion, and Ms. Turcotte provided a second, to recommend INDEFINITE POSTPONEMENT of an Annual Town Meeting zoning article proposed by the Historical Commission to replace the Demolition Delay Bylaw.

VOTE: The motion carried unanimously, 5-0.

ZBA REFERRAL, SPECIAL PERMIT AMENDMENT: 41 MARGINAL ROAD / BANKS

Planning Board members reviewed this special permit application to construct an exterior staircase for access to the third story deck, an amendment to a recent special permit. Mr. Casagrande confirmed with Ms. Massard that the proposed staircase would not affect lot coverage.

Mr. Glennon questioned the setback, and Ms. Massard confirmed that the staircase would be located within the existing footprint of the dwelling structure for safety purposes and would not start at the ground floor. Ms. Massard stated that there is no proposed change to setbacks or coverage.

MOTION: Ms. Ladd Fiorini made a motion, and Ms. Turcotte provided a second, to recommend APPROVAL to the Zoning Board of Appeals regarding Special Permit #2016-5, an amendment to Special Permit #2014-4, in order to construct an exterior staircase for access to the third story deck.

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

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Mr. Glennon stated that he would have recommended to defer judgment to the Zoning Board of Appeals.

PLANNING DIRECTOR UPDATE

Administrative Notes: Ms. Massard stated that she is bringing forward this concept to Planning Board agendas as a carryover from other towns that have used it. The idea for Administrative Notes is to bring forward agenda topics that do not require Planning Board discussion. All Administrative Notes items would be approved as a slate. The goal of instituting Administrative Notes is to shorten the meeting duration. Administrative Notes could include an ANR application or closing out of a finished project. She recommended that the Planning Board try it and see how it works.

Mr. Wadsworth noted that each motion would need to be unique, and asked how that would be integrated into the minutes. Ms. Massard stated that while there would only be one motion such as a "motion to approve Administrative Notes;" each individual vote would be separated in the minutes. Ms. Turcotte stated that she liked the idea.

421 Elm Street: Ms. Massard reported that she had met with the applicants for a cell tower at 421 Elm Street that the Planning Board had approved through an Administrative Site Plan Review in 2010. The applicants have a valid permit and would like to move a portion of the access drive to the cell tower due to some archaeological issues they encountered. She showed the Planning Board members a sketch plan of the proposal. She stated that many fewer trees would need to be cut down to do this. She asked the Planning Board if an amended Administrative Site Plan Review (ASPR) would be required or not.

Mr. Wadsworth asked if the entrance off of Elm Street would remain the same, and Ms. Massard replied that it would not. Mr. Wadsworth asked if any change in traffic would result, and Ms. Massard replied that the change is only internal within the property. Ms. Ladd Fiorini asked about the dwelling on the property, and Ms. Massard replied that it is a residence leasing the site to the cell tower. Ms. Ladd Fiorini asked again about the trees, noting that it looks like there are approximately ten trees along the top of the hill on Elm Street. Mr. Glennon asked about the topography, and Ms. Massard responded that there is a steep cut that goes down from 103 feet to 96 feet in elevation.

Mr. Glennon asked what the rationale was for siting the original access, and Ms. Massard replied that it was to avoid getting close to the dwelling structure. Ms. Ladd Fiorini commented that while it might be a benefit to the town, it is not a benefit to the homeowner. Ms. Massard stated that the homeowner has offered the lease to the cell tower.

Ms. Massard asked if the Planning Board members would like to publish a public meeting notice and notice abutters through an ASPR amendment, or if the matter could be considered a minor field change. Mr. Wadsworth noted that the change appears to be minor. Mr. Glennon agreed, suggesting that it should be an agenda item but no notification would be required otherwise.

Saw Mill Road Street Acceptance: Ms. Massard reported that the Saw Mill Road street acceptance is expected to be indefinitely postponed at Town Meeting. However, the proponents may come back next year. Ms. Turcotte noted that everyone she knew paid a lot for snow removal last year. Ms. Massard stated that the Town of Duxbury should look at the issue holistically and not single anyone out.

Annual Town Meeting: Mr. Wadsworth asked if zoning articles are ready for Annual Town Meeting, and Ms. Massard replied that Moderator reports need to be prepared. Mr. Wadsworth directed staff to schedule a Planning Board meeting for the morning of Town Meeting in case a new vote is needed for the FEMA maps. Ms. Massard stated that new maps may arrive next week but there is no date certain. She stated that a Special Town Meeting may be required but the town will try to avoid that if possible due to the expense.

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Mr. Wadsworth asked about the Zoning Bylaw Review Committee sponsored articles, and Ms. Massard reported that the ZBRC chair, Ms. Judi Barrett, will present those articles. Ms. Massard noted that the ZBRC has worked hard and she is pleased to see that they have made progress although it is difficult to get everything ready. She stated that she looks forward to working with the ZBRC on amendments for next Annual Town Meeting.

OTHER BUSINESS

Engineering Invoice:

MOTION: Mr. Glennon made a motion, and Ms. Ladd Fiorini provided a second, to approve minutes of January 25, 2015 as amended.

VOTE: The motion carried unanimously, 5-0.

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ADJOURNMENT

Planning Board meeting adjourned at 9:01PM. The next Planning Board meeting will take place on Wednesday, March 9, 2016 at 7:00 PM at Duxbury Town Hall, Mural Room, 878 Tremont Street.

MATERIALS REVIEWED

Request for Release of Lots Under Covenant and Escrow Release: Shantum Lane / Pontiff

- Email from E. Pontiff dated 02/01/16

Administrative Site Plan Review: Millbrook Marketplace, 277 & 285 Saint George Street & 30 Railroad Avenue

- ASPR application and materials

ZBA Referral, Special Permit: Millbrook Marketplace, 30 Railroad Avenue / Loftus

- ZBA referral materials

ZBA Referral, Special Permit: Millbrook Marketplace, 277 & 285 Saint George Street & 30 Railroad Avenue / Juliano

- ZBA referral materials

Continued Public Hearing, Annual Town Meeting 2016 Zoning Article: Demolition Delay Bylaw

- No materials reviewed

ZBA Referral, Special Permit Amendment: 41 Marginal Road / Banks

- ZBA referral materials
- ZBA decision #2014-0024

ZBA Referral, Special Permit Amendment: 1508 Tremont Street / E and D, LLC (Cadete)

- ZBA referral materials
- ZBA decision Case #90-25

Other Business

- PB minutes of 01/11/16
- PB minutes of 01/25/16
- ZBA decision: 36 Priscilla Lane / Lovett