

Approved 01/25/2017

TOWN CLERK

2017 JAN 31 PM 1:14

DUXBURY, MASS.



Town of Duxbury Massachusetts Planning Board

Minutes 12/14/16

The Planning Board met on Wednesday, December 14, 2016 at 7:00 PM at the Duxbury Town Hall, Mural Room.

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

Absent: No one was absent.

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

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

OPEN FORUM

No items were brought forward during Open Forum.

OTHER BUSINESS

Because it was not yet time for the public meeting, the Planning Board addressed Other Business.

Meeting Minutes:

MOTION: Ms. Turcotte made a motion, and Ms. Ladd Fiorini provided a second, to approve minutes of November 9, 2016 as written.

VOTE: The motion carried unanimously, 7-0.

MOTION: Ms. Turcotte made a motion, and Ms. Ladd Fiorini provided a second, to approve minutes of November 16, 2016 as written.

VOTE: The motion carried 6-0-1, with Mr. Uitti abstaining.

Engineering Invoices:

MOTION: Ms. Turcotte made a motion, and Mr. Wadsworth provided a second, to approve the following Amory Engineers invoices dated December 5, 2016:

- Invoice #14601A in the amount of \$506.25 for services related to Winsor House ASPR
- Invoice #14601B in the amount of \$2,430.00 for services related to 1065 Summer Street / Ducks Berry LLC special permit
- Invoice #14601C in the amount of \$236.25 for services related to Teakettle Lane Definitive Subdivision.

VOTE: The motion carried unanimously, 7-0.

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The mission of the Town of Duxbury is to deliver excellent services to the community in the most fiscally responsible and innovative manner while endeavoring to broaden our sense of community and preserve the unique character of our town.

PUBLIC MEETING, ADMINISTRATIVE SITE PLAN REVIEW: WINSOR HOUSE INN, 390 WASHINGTON STREET / MODERN FAMILY ASSOCIATES, INC.

Mr. Glennon opened the public meeting at 7:05 PM. Present for the discussion were the applicants' representatives, Mr. Mark Casey of South Shore Survey Consultants, and Ms. Jessica Williams of the Williams Design Studio. Also present was the town's consulting engineer, Mr. Patrick Brennan of Amory Engineers.

Mr. Glennon invited Mr. Casey to present the proposed plan. Mr. Casey explained that an existing dwelling is to be razed and rebuilt as an 8-bedroom inn. An existing cottage has been razed, and a new structure would be constructed for two more inn rooms. In addition, ten new parking spaces are proposed using crushed stone, although only eight spaces are required.

Mr. Casey addressed a review letter submitted by Mr. Patrick Brennan of Amory Engineers, the Planning Board's consulting engineer. Mr. Casey's responses were also addressed in a letter dated December 13, 2016 and distributed to Board members at tonight's meeting. A summary of the comments:

- Mr. Brennan had noted that no proposed septic piping is shown on the plan. Mr. Casey responded that plans will be revised to show the septic system piping, noting that it was not shown previously in order to show parking lot details.
- Mr. Brennan had noted that test pits should be excavated at infiltration systems to verify soil textural analysis and depth to seasonal high groundwater. Mr. Casey responded that revised plans will show three test pit locations and soil logs.
- Mr. Brennan had suggested that the "Infiltration Bed Detail" on plans be revised to show the filter fabric wrapped over the stone approximately 3-6 inches below the top, in order to protect the crushed stone from becoming clogged with sediment. Mr. Casey responded that plans would be revised to show the filter fabric in the infiltration bed three inches below the stone.
- Mr. Brennan had noted that the "Light Pole Detail" on the submitted plan shows a height of 28 feet when the pole height should be a maximum of 15 feet. Mr. Brennan had also noted that a photometric plan is required but suggested that the Planning Board consider waiving that requirement since it appears that only one new light pole is proposed. Mr. Brennan had also recommended that a condition of approval include that lighting should be directed downward with no spillage onto abutting properties. Mr. Casey responded that the plan will be revised to show a 15-foot high light pole. Mr. Casey requested a waiver of the photometric plan since only one new lighting fixture is proposed on the north side of the proposed parking lot.
- Mr. Brennan had noted that a ten-foot setback is shown on plans but no vegetation is shown, and a ten-foot landscaped buffer strip is required around parking areas in the Residential Compatibility district. In addition, Mr. Brennan had recommended that a landscape plan should be submitted detailing how the buffer would provide adequate screening. Mr. Casey responded that a ten-foot buffer with a 6-foot high stockade fence will be added to the plan, which he believes will provide a better method than landscaping for preventing glare onto abutting properties.
- Mr. Brennan had noted that access and egress to parking spaces #5 and #10 will be difficult. Mr. Casey responded that he and Mr. Brennan had spoken and Mr. Casey proposes no change at this time because the spaces are supported by a 24-foot wide aisle and no curbing is proposed.
- Mr. Brennan had questioned the use of crushed stone for the proposed handicap parking space. Mr. Casey responded that the applicants now propose compacted stone dust for the parking space and loading area, which will be shown as cross-hatched on revised plans and is ADA compliant.
- Mr. Brennan had noted that a post-construction Operation and Maintenance Plan should be provided for stormwater best management practices. Mr. Casey agreed to do so in revised plans.
- Mr. Brennan had noted that the septic system design had not been reviewed. Mr. Casey confirmed that the applicants will file with the Board of Health for the new septic plan after Site Plan approval from the Planning Board.

Mr. Glennon invited any further comments from Mr. Brennan. Mr. Brennan stated that he agrees with all of Mr. Casey's responses as long as the Planning Board is satisfied with a stockade fence instead of a landscaped buffer.

TOWN CLERK
2017 JUN 31 PM 3:14
DUXBURY, MASS.

around the new parking area. Mr. Brennan expressed a continued concern with accessibility of the two parking spaces (#5 and #10), adding that vehicles might back up into the new stockade fence.

Mr. Bear asked if the stone dust parking space is ADA-compliant, and Mr. Brennan replied that his recollection is that stone dust or reclaimed asphalt is allowed. From a drainage standpoint, stone dust is not as pervious as crushed stone. However it only covers a small area and should have no impact on drainage.

Mr. Wadsworth asked about lot coverage, and Mr. Brennan noted that it would increase from 36 percent to 40 percent. Mr. Casagrande noted that the coverage is still under 50 percent. Mr. Wadsworth agreed that lot coverage of 50 percent is allowed in a Neighborhood Business District; however, this is a grandfathered use in the Residential Compatibility District. Ms. Massard stated that a revised special permit will allow the use and the Building Inspector has no issues with the proposed lot coverage. She noted that in pre-application meetings she and the Building Inspector had encouraged a layout that would maintain the existing aesthetic character. She noted that staff recommends favorably for both the Administrative Site Plan Review and the ZBA referral the Planning Board is reviewing later tonight.

Mr. Glennon noted that the Planning Board could choose to approve the Administrative Site Plan Review (ASPR) tonight subject to Ms. Massard reviewing and approving revised site plans. Ms. Massard agreed, noting that if any other changes are made besides the ones covered tonight, such as changes to the stockade fence, she would ask the applicant to come back to the Planning Board.

Mr. Bear suggested that since the plans will be revised anyway, the structure shown on the plan as "Prop. Dwelling 2 Bedrooms," should be changed to "Guest Rooms," so that it is not labelled as a dwelling. Mr. Casey agreed to that revision.

Mr. Wadsworth advised Mr. Casey to speak with the Water Superintendent regarding the size of water lines.

Mr. Glennon invited public comment. Ms. Lorrie Hall of 175 Abrams Hill asked if there is any intention of keeping any trees within the setback on the south side of the property. Mr. Casey responded that a stockade fence will be installed on the property line and there is no intention of taking any vegetation except for the fence installation.

Ms. Nancy Shine of 840 Keene Street asked if the hard surface proposed for handicap parking would be accessible for wheel chairs. Mr. Casey responded that it will be dense-packed stone dust that will be a hard-packed surface. Ms. Shine expressed a concern that if the hard-packed surface becomes loose it would become dangerous. Ms. Turcotte stated that the handicap parking space must be ADA-compliant because it would open the owner to lawsuits. Ms. Williams, the applicant's representative, stated that she had met with the local commission on disabilities and other improvements will be made throughout the design of the buildings to ensure accessibility. She stated that the owners want to be good neighbors.

Mr. Mike Stewart of 40 Western Way stated that he is an abutter on the parking lot side of the property. He stated that so far the new owners have made good improvements and have been good neighbors. He stated that his concern is that his property is lower than the inn and prefers that the stockade fence be higher if possible so that headlights do not cause glare onto his property. Mr. Casey stated that he is not sure that a higher fence would help the glare from headlights. Mr. Bear agreed that headlights are low to the ground so a six-foot high tight stockade fence should eliminate any headlight glare. Mr. Casey stated that he would agree with whatever conditions the Planning Board chooses. Mr. Stewart stated that he will work with the owners to come up with a mutually agreeable solution.

Ms. Megan Lemieux of 372 Washington Street stated that she likes what the new owners have done so far. She expressed concern with the increase in density and traffic with the proposal for an additional eight-bedroom inn. Mr. Glennon stated that the Winsor House Inn is a pre-existing nonconforming use.

Mr. Jim Garrett introduced himself as treasurer of the Pilgrim Church, an abutter to the Winsor House Inn. He stated that he is concerned with the potential of Winsor House Inn customers parking in the church's lot on Sunday

2017 JAN 25 PM 4
 DUXBURY, MA
 TOWN CLERK

mornings. He stated that on evenings it is not an issue but on Sunday mornings the church parking lot is full. He stated that he wants to make sure that any overflow parking from Winsor House Inn does not spill onto the church's lot. Ms. Williams responded that the applicants have added more parking spaces than required. The new parking will be identified by room number and that should be sufficient. Mr. Glennon stated that the owners should be made aware of Mr. Garrett's concern.

Mr. Wadsworth stated that he would like to see the additional parking area paved with low-impact design drainage, noting that the nearby bay has been identified as being impacted by stormwater runoff. Mr. Casey asked if Mr. Wadsworth is proposing pervious pavement, and Mr. Wadsworth replied "no." Mr. Wadsworth stated that he would like to see some type of storage for runoff from surfaces, such as a rain garden. Mr. Casey noted that the stormwater calculations show no increase in runoff based on the proposed infiltration beds, and the current design complies with stormwater regulations. Mr. Wadsworth responded that phosphates would be filtered by a rain garden and broken down by plants. Mr. Casey stated that he believes the stormwater design is sufficient the way it is proposed. Mr. Glennon entertained a motion.

MOTION: Ms. Turcotte made a motion, and Mr. Casagrande provided a second, to approve an Administrative Site Plan Review for Winsor House Inn, 390 Washington Street, subject to revised plans addressing all comments in the Amory Engineers letter dated November 22, 2016 and the South Shore Survey Consultants letter dated December 13, 2016, with the addition of an 8-foot high stockade fence to be installed at the rear of the property line, all to the satisfaction of the Planning Director.

DISCUSSION: Mr. Wadsworth stated that he cannot support the approval without the changes he recommended for stormwater management. He stated that his recommendations would be relatively low cost and would be important based on how close the property is located to the bay. He stated that the entire parking lot should be paved, and stone dust will move when snow is removed.

VOTE: The motion carried 6-1, with Mr. Wadsworth voting against.

ZBA REFERRAL, SPECIAL PERMIT AMENDMENT: WINSOR HOUSE INN, 390 WASHINGTON STREET / WEILBRENNER

Mr. Glennon took this agenda item out of order since it relates to the previous agenda item. A special permit amendment is required for the same changes as proposed in the Administrative Site Plan Review.

MOTION: Ms. Turcotte made a motion to defer judgment to the Zoning Board of Appeals regarding this special permit amendment.

MOTION FAILED: As there was no second to the motion, the motion failed.

MOTION: Mr. Uitti made a motion, and Ms. Turcotte provided a second, to recommend approval to the Zoning Board of Appeals regarding an amendment to Special Permit #2016-16 for Winsor House Inn, 390 Washington Street / Weilbrenner, to renovate an existing four-bedroom residential structure to house eight guest rooms; build two new guest rooms; demolish a three-bedroom dwelling; demolish and reconstruct a storage barn; and construct ten new parking spaces; subject to the following, to which the applicant has agreed:

- Revised plans to the satisfaction of the Planning Director addressing comments raised in a consulting engineer review letter dated November 22, 2016 from Patrick Brennan of Amory Engineers and agreed to in a letter from the applicant's representative, Mark Casey of South Shore Survey Consultants, Inc. dated December 13, 2016;
- Installation of an eight-foot fence in the rear of the property line;
- Inclusion of conditions in the Administrative Site Plan Approval for the subject property.

VOTE: The motion passed 6-1, with Mr. Wadsworth voting against.

TOWN CLERK
JAN 31 PM 1:14
DUXBURY MASS.

PUBLIC HEARING, PROPOSED ZONING AMENDMENT FOR ANNUAL TOWN MEETING 2017: ONE DWELLING PER LOT

Mr. Glennon opened the public hearing at 7:45 PM.

MOTION: Ms. Ladd Fiorini made a motion, and Ms. Turcotte provided a second, to waive the reading of the public hearing notice and correspondence list.

VOTE: The motion carried unanimously, 7-0.

Correspondence list for the record:

- PB minutes of 07/27/16
- Memorandum from A. Kreiger of Anderson & Kreiger to R. Read et. al dated 09/14/16 re: Zoning Bylaw – RCCs, Special Permits and Inclusionary Housing
- PB minutes of 09/28/16
- PB minutes 10/26/16
- Emails between A. Kreiger, V. Massard et. al re: Amendment language
- Public hearing notice stamped with Town Clerk on 11/07/16; published in the Duxbury Clipper on four successive weeks: 11/09/16, 11/16/16, 11/23/16, and 11/30/16; and mailed to the Department of Housing and Community Development, the Metropolitan Area Planning Council, the Old Colony Planning Council, and the Planning Boards of Kingston, Marshfield, Pembroke and Plymouth
- Emails between J. Lampert and V. Massard et. al dated 12/13/16 – 12/14/16 re: Tomorrow’s PB Meeting.

TOWN CLERK
 2017 JAN 31 PM 1:15
 DUXBURY, MASS.

Ms. Massard reported that Mr. James Lampert of 148 Washington Street was not able to attend tonight’s meeting but wanted a letter read into the record. Mr. Glennon requested that the letter be added to the public hearing file. Ms. Massard summarized that Mr. Lampert supports the article, but has questions regarding the ZBA case for 0 North Street.

Ms. Massard stated that there have been two zoning workshops on this topic previously. A new Zoning Bylaws Section 401.4.4 will be added with language that, “Notwithstanding any other provisions of this Bylaw, no more than one (1) single-family dwelling or dwelling unit is permitted by right on any lot in any district. Nothing in this sub-section implies that one (1) single-family dwelling or dwelling unit is permitted in any district where this Bylaw does not expressly provide.”

Ms. Massard stated that the proposed amendment has evolved from a Town Counsel memorandum dated September 14, 2016 that the bylaw is unclear.

Mr. Glennon invited public comment. Mr. Kim Abplanalp of 120 Myrtle Street stated that he is attending tonight’s meeting for the Planning Board’s discussion of an appeal of a building permit at 0 North Street for five dwellings on one lot. Mr. Abplanalp stated that he is encouraging the approval of this article to prevent future building permits like that one.

Ms. Carole Smith of 415 North Street stated that only one dwelling should be allowed on any lot in town no matter the lot size. She stated that she does not want to see the town overdeveloped. Mr. Wadsworth noted that more than one dwelling per lot within the Planned Development District is appropriate, but is not appropriate otherwise. He stated that it is unfortunate that this issue has arisen.

Mr. Wadsworth asked if this amendment applies to lots with six or more dwellings or lots with under six dwellings. Ms. Massard responded that there will be an additional amendment that Town Counsel is working on for Zoning Bylaw Section 530 addressing lots with six or more dwellings or lots with more than ten acres.

Mr. Casagrande emphasized that the topic of tonight’s discussion is for lots with less than six dwellings or under ten acres in size. He noted that it has never been anyone’s understanding that someone could build multiple dwellings on a lot by right until the question was raised by an attorney. Mr. Bear stated that the impact of this interpretation is already felt. Ms. Massard noted that the advertisement of this proposed amendment freezes the zoning so no more

building permits can now be issued. Mr. Wadsworth asked if building permits had been issued for multiple dwellings on a lot and Ms. Massard replied that there have been two or three situations with an additional house on a lot permitted with a condominium form of ownership, all based on clarifications of the bylaw from Town Counsel.

Mr. Glennon called for a motion to close the public hearing.

MOTION: Mr. Uitti made a motion, and Ms. Turcotte provided a second, to close the public hearing for a proposed amendment to Zoning Bylaws Article 400, "Use, Intensity, Dimensional and Coverage Regulations for All Districts," to add a new section regarding one dwelling per lot.

VOTE: The motion carried unanimously, 7-0.

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

MOTION: Ms. Ladd Fiorini made a motion, and Ms. Turcotte provided a second, to recommend approval to Annual Town Meeting 2017 for a proposed amendment to Zoning Bylaws Article 400, "Use, Intensity, Dimensional and Coverage Regulations for All Districts," to add a new section regarding one dwelling per lot.

VOTE: The motion carried unanimously, 7-0.

PUBLIC HEARING, PROPOSED ZONING AMENDMENT FOR ANNUAL TOWN MEETING 2017: GROUND MOUNTED SOLAR PHOTOVOLTAIC OVERLAY DISTRICT (SETH PICKERING FROM GREEN COMMUNITIES TO ATTEND)

Mr. Glennon opened the public hearing at 7:58 PM.

MOTION: Ms. Ladd Fiorini made a motion, and Mr. Casagrande provided a second, to waive the reading of the public hearing notice and correspondence list.

VOTE: The motion carried unanimously, 7-0.

The correspondence list for the public record:

- PB minutes of 10/26/16
- Emails between V. Massard and S. Pickering et. al re:Duxbury Green Community: Draft By Right Solar Zoning.
- Draft article language and map prepared by Duxbury Planning Department
- Public hearing notice stamped with Town Clerk on 11/22/16; published in the Duxbury Clipper on two successive weeks: 11/23/16 and 11/30/16; and mailed to the Department of Housing and Community Development, the Metropolitan Area Planning Council, the Old Colony Planning Council, and the Planning Boards of Kingston, Marshfield, Pembroke and Plymouth.

Ms. Massard explained that the proposed ground mounted solar overlay district would be located in the vicinity of the existing solar array near the transfer station on Mayflower Street. She stated that language for the Zoning Bylaw was adapted from a model bylaw with comments from Town Counsel. She noted that copies of the language are available but the language will be revised.

Ms. Massard introduced Mr. Seth Pickering, Green Community Coordinator for the Southeast Region of the Massachusetts Department of Energy Resources. Mr. Pickering had offered to attend tonight's meeting in order to answer any questions about the Green Communities program, which is why a new solar overlay district is being considered. The goal is for the Town of Duxbury to become a Green Community. Mr. Pickering distributed a list of Green Community towns in Massachusetts, and he noted that it is available online also. He stated that he would also be attending meetings of the Board of Selectmen and Finance Committee regarding the requirements and benefits of the Green Community status.

TOWN CLERK
2017 JAN 31 PM 1:15
DUXBURY, MASS.

TOWN CLERK
2017 JAN 31 PM 1:15
DUXBURY, MASS

Mr. Pickering noted that Green Community status requires as of right siting of ground mounted solar structures. He reviewed a list of five criteria for Green Communities:

- As-of-right siting of renewable energy / alternative energy
- Expedited permitting for energy facilities
- Energy baseline (20 percent energy reduction plan)
- Purchase only fuel-efficient municipal vehicles
- Minimize life-cycle costs for residential construction over 3,000 square feet.

Mr. Glennon noted that the proposed bylaw is a model bylaw, and he expects that the municipal solar installation would be fairly sizable. Mr. Pickering stated that a minimum of 250 kilowatts (kW) is required, which would be approximately an acre in size. Mr. Glennon asked if capacities are expected to increase, and Mr. Pickering replied that they are becoming more efficient.

Mr. Glennon asked if land has been recommended to be designated for use as a solar facility, and Mr. Pickering replied that it is up to the local community to find land, noting that capped landfills are generally a good application for most towns.

Mr. Casagrande stated that it may be possible to use town-owned conservation land, such as defunct cranberry bogs and may be shielded from a public way. Mr. Glennon stated that open space is intended to be just that, and it may not be advisable to propose other uses for it. Mr. Pickering stated that the map showing the proposed site at the existing landfill would comply with Criteria #1 of the Green Community status.

Mr. Glennon asked if rooftop-mounted solar facilities are considered for Green Community status, and Mr. Pickering replied that they are not. He noted that the existing solar facility was approved by a special permit, and the Green Communities program requires a by-right site.

Mr. Uitti asked further questions about the requirements for Green Communities status. Mr. Pickering noted that 155 communities in Massachusetts have been designated Green Communities, and 30 more have recently applied, representing over half the population in the state. Mr. Glennon noted that if the goal is funding, the pie is only so big. Mr. Pickering replied that it is not necessarily the case because funding is strong and over \$60 million have been granted to date, with \$40 million in projects completed. Funding comes from the Regional Greenhouse Gas Initiative. Those funds along with rebates from utilities would help to defray energy program costs to the Town of Duxbury.

Mr. Glennon asked what would happen if funds were to dry up, and Mr. Pickering replied that a community can renounce its Green Community designation; however no community has done that to date. Mr. Uitti confirmed that funds could be used to make municipal buildings more energy efficient.

Mr. Glennon invited public comment. Mr. Sandy Van Stockleburg of 315 Church Street identified himself as chair of the town's Alternate Energy Committee (AEC). He stated that the AEC supports this proposed warrant article for the following reasons:

1. It provides access to funding that would not be otherwise available.
2. It benefits the entire community.
3. It provides significant savings to the town.
4. It brings Duxbury up to par with its environmentally friendly neighboring towns.

Mr. Glennon asked about the proposed designation of the overlay district. Ms. Massard replied that portions of three town-owned lots have been identified that have a significant buffer to abutting neighbors.

Mr. Wadsworth noted that rooftop solar has the benefit of not increasing site coverage, where on the ground it is impervious and it would be difficult for stormwater to filter through the ground underneath. Also trees may need to be removed, and the town is fond of its trees.

Mr. Bear asked who the applicant would be for a ground-mounted solar array, and Ms. Massard responded that the application would be through a municipal process to bid out. She noted that the Administrative Site Plan Review regulations would be updated through a future Planning Board public hearing in order to provide for expedited solar permits.

Mr. Glennon asked about the proposed site on Mayflower Street, and Ms. Massard distributed a map of the proposed site plan. She noted there would be a 40-foot setback from the street and the land is completely cleared already. The existing solar array area would be increased from 2.5 acres to 6.5 acres, well back from the existing transfer station and going down a hill, more than 200 feet from the southern property line.

Ms. Massard noted that the town zoning map would need to be updated to include this new solar district. Mr. Wadsworth asked if other locations had been identified, and Ms. Massard stated that the North Hill Golf Course had been looked at and abandoned cranberry bogs. She stated that she hopes that the Mayflower Street site can work for both the solar array and the Department of Public Works.

Mr. Glennon entertained a motion to continue the public hearing.

MOTION: Ms. Turcotte made a motion, and Mr. Wadsworth provided a second, to continue the public hearing for a proposed zoning article for Annual Town Meeting 2017 for a Ground Mounted Solar Photovoltaic Overlay District until January 25, 2017 at 7:15 PM.

VOTE: The motion carried unanimously, 7-0.

Mr. Glennon thanked Mr. Pickering for his participation.

TOWN CLERK
2017 JUN 31 PM 1:15
DUXBURY, MASS.

REQUEST FOR WAIVER OF FILING FEE, ESCROW ACCOUNT DEPOSIT, SPECIAL PERMIT (PRE-PUBLIC HEARING): 1065 SUMMER STREET / DUCKS BERRY, LLC

Ms. Massard noted that the Planning Office has received an unexpected landowner petition and new filing for a special permit for 20 units on one lot. The applicant will be signing a waiver of timelines. The zoning amendment proposed for Section 530 of the Zoning Bylaws (Residential Conservation Cluster) will make this application a moot point. She stated that the applicant appears to be re-filing in case Annual Town Meeting votes down the amendment and filing so that the application is on record. The applicant has also filed his own landowner petition allowing this type of development by special permit if filed by December 2, 2016.

Mr. Glennon asked if the applicant paid the filing fee for the original application, and if costs were incurred. Ms. Massard noted that the applicant is requesting waiver of the filing fee only, and he would pay for legal notices and keep funds in an escrow account for consulting engineer review. Mr. Glennon asked if the applicant is asking to apply the original application fee to this application, and Ms. Massard said he was correct.

Mr. Glennon suggested that the Planning Board could consider voting to waive the application fee subject to a written extension of public hearing indefinitely or at least not fewer than six months.

MOTION: Ms. Turcotte made a motion, and Ms. Ladd Fiorini provided a second, to waive the application fee for a special permit filing at 1065 Summer Street submitted to the Planning Office on December 2, 2016, subject to the applicant signing a waiver of timelines for no less than six months from the date of filing.

DISCUSSION: Mr. Wadsworth noted that if the proposed landowner petition is voted down then the application is moot. Ms. Massard agreed, noting that the applicant appears to be prepared in case the amendment passes. Mr. Wadsworth stated that he is inclined to not do anything. Mr. Bear stated that the applicant is best served in applying the original application fee to the new filing.

VOTE: The motion carried 6-0-1, with Mr. Wadsworth abstaining.

ZBA REFERRALS, SPECIAL PERMITS

43 Ocean Road North / Kelley: Ms. Massard explained that the applicants are proposing to raise up a pre-existing nonconforming dwelling structure and construct a pile foundation in order to get out of wave action in a flood zone. She noted that they have to raise the house out of jeopardy, and other houses have been elevated in a similar manner. Ms. Massard noted that the proposed plan references an out-of-date FEMA panel now that the Town of Duxbury has adopted new maps as of November 4, 2016. She stated that she supports the proposed special permit subject to double-checking the elevation.

MOTION: Mr. Casagrande made a motion, and Ms. Turcotte provided a second, to recommend approval to the Zoning Board of Appeals for Special Permit #2016-7, 43 Ocean Road North / Kelley to raise up a pre-existing nonconforming dwelling and to construct a pile foundation, subject to confirmation of the flood zone elevation on FEMA Floodplain Insurance Rate Maps dated November 4, 2016.

VOTE: The motion carried unanimously, 7-0.

151 Gurnet Road / Nikopoulos: Ms. Massard stated that this is a special permit to raze and rebuild on a smaller footprint. The applicants propose to demolish and rebuild a pre-existing nonconforming dwelling structure, encroaching in the setbacks and exceeding the allowable coverage. She stated that the dwelling location is moving further away from the ocean with a porch and deck moved from the front to the back to overlook the water.

Mr. Casagrande stated that it appears that the applicants propose to move the dwelling back and no closer to the abutting neighbors. Ms. Massard noted that the neighbor's view would be improved slightly.

Mr. Bear asked if Ocean Road North is really a road, and Ms. Massard replied that there is pavement about 10-12 feet in width on this very short stretch of road layout and they are resurfacing the driveway.

Mr. Wadsworth noted that there is an increase in site coverage, and Ms. Massard noted that there is a five percent reduction in Gross Floor Area in the setback.

Ms. Ladd Fiorini asked if it is a single family dwelling with a second home, noting that it appears that the two structures have separate kitchen, baths, and entrances. Ms. Massard noted that it would be the Building Department's jurisdiction.

Mr. Glennon stated that in the case of a voluntary raze and rebuild the property owner has an opportunity to comply with current Zoning Bylaws. He stated that because the razing is voluntary it should not be permitted.

MOTION: Mr. Casagrande made a motion, and Ms. Turcotte provided a second, to recommend approval to the Zoning Board of Appeals regarding Special Permit #2016-18, 151 Gurnet Road / Nikopolous, subject to the structure to remain as a single-family dwelling.

VOTE: The motion carried 5-2, with Mr. Glennon and Ms. Ladd Fiorini voting against.

**ZBA REFERRALS, APPEALS OF BUILDING INSPECTOR'S DETERMINATION:
0 NORTH STREET (FRANGESH / ABPLANALP / BRENNEN)**

Present for the discussion of three separate appeals of building permits issued for 0 North Street were the appellants: Ms. Deborah Frangesh; Mr. Kim Abplanalp and Ms. Mary Ann Abplanalp; and Mr. Richard Brennan. Also present were approximately 60 members of the public. Mr. Glennon thanked the appellants for their patience, noting the late hour. He stated that he would like to consider all three appeals at once because they pertain to the same property. Ms. Massard noted that the building permit applicant is not present tonight and cautioned the Planning Board to maintain the scope of tonight's discussion to its role of making a recommendation to the Zoning Board of Appeals, the board that will hold the public hearing.

TOWN CLERK
2017 JAN 31 PM 1:15
DUXBURY, MASS

Mr. Glennon noted that earlier tonight the Planning Board made a recommendation for a zoning amendment for Annual Town Meeting to make clear that one dwelling should be allowed per lot. He stated that the Zoning Board of Appeals (ZBA) will make a decision on all three appeals at its public hearing. Tonight's discussion is for the purpose of a Planning Board recommendation to the ZBA. Mr. Glennon requested a presentation from one person representing all three appeals since the issues are the same.

Ms. Deborah Frangesh of 399 North Street, one of the appellants, spoke on behalf of the three appeals. She displayed a large poster to support her points:

- Calculations have been done showing that approximately 70,400 square feet of trees are proposed to be removed without a land clearing permit from the Planning Board.
- The Aquifer Protection Overlay District is shown on the town's GIS map but is not shown on the proposed plan.
- The Wetlands Protection Overlay District (WPOD) line on the building permit plan is different than the WPOD line on a different applicant's landowner petition to remove the WPOD from the zoning map that was indefinitely postponed at Annual Town Meeting 2015, with a net result of the building permit plan showing less WPOD land than the landowner petition map. The difference in WPOD land area is reflected in the upland area being calculated differently.
- There is no proof that the ANR for Lot 1 on the building permit plan has been recorded. The ANR plan was endorsed by the Planning Board on September 28, 2016. Ms. Frangesh questioned if the building permit applicant, Mr. John Baldwin, should be applying for six building permits rather than five on one lot and one on the ANR lot. She stated that an application for building six dwellings on a lot triggers the requirement for a special permit through the Planning Board.
- The area is covered with trees and wetlands, and a lot of damage can be done with the development of the land with no stormwater drainage.
- The building permit plan shows her lot using town water when she actually uses well water.
- The only access to the five proposed dwellings would be through an easement over Lot 1.

Mr. Casagrande noted that Ms. Frangesh is bringing forward some information that was not included in the Planning Board packet. He noted that the building permit was never reviewed by the Planning Board.

Ms. Massard stated that the access would be a condominium driveway. She noted that the developer, Mr. Baldwin, is not present and he may have explanations. She cautioned that she did not want the discussion to appear to be a public hearing. Mr. Casagrande advised Ms. Frangesh that she is raising valid points but her battle is with the Zoning Board of Appeals.

Ms. Massard stated that Town Counsel is involved in these appeals, and the town is addressing the matter of ensuring that only one dwelling is allowed by right. She noted that as a practice land clearing is allowed for developments. Mr. Glennon noted that also as a matter of practice only one dwelling per lot has been allowed. Ms. Massard stated that the Building Inspector was following the advice of Town Counsel. Mr. Glennon stated that the Town Counsel has clarified that the Building Inspector is not bound by that opinion. Mr. Casagrande provided an explanation to the audience of the events during the past year that led to the issuance of the building permits. He noted that earlier tonight there was a public hearing regarding an amendment that would make clear that only one dwelling is allowed on a lot. There will also be a public hearing for another amendment that would direct applicants with larger lots or more dwelling units proposed on a larger lot to file for either a Residential Conservation Cluster or a Planned Development.

Mr. Uitti thanked Ms. Frangesh for her thorough presentation and stated that he was hesitant to make a recommendation without hearing both sides of the argument and also because of the technical nature of the issues. In addition, there is new information that the Planning Board is hearing for the first time tonight.

Ms. Carole Smith of 415 North Street stated that there appears to be a conflict of interest because the building permit applicant, Mr. John Baldwin, is a member of the ZBA. Mr. Casagrande responded that the ZBA is charged with looking at each application on its own merit without consideration of who the application involves, and Mr. Baldwin

TOWN CLERK
2017 JAN 31 PM 1:15
DUXBURY MASS

will most likely recuse himself. Ms. Smith also commented that there were many details omitted from the plan presented to the Building Inspector for the building permits.

Mr. Glennon invited other comments with new information. Mr. Kim Abplanalp of 120 Myrtle Street, one of the appellants, agreed with Mr. Uitti that the site is complex. He noted that earlier tonight the Planning Board considered a Zoning Bylaw amendment that would enable the town to obtain Green Community status. He noted that this area of town is very green and typically people build around trees rather than cutting them down. In addition, the wetlands in the area are sensitive. He suggested that the Planning Board could at least relate some of its environmental concerns to the ZBA.

Mr. Richard Brennen of 100 Myrtle Street stated that he has a 300-foot deep filtration system that the builder failed to recognize and placed a septic system very near. He noted that Mr. Baldwin did not include the filtration system on the site plan although Mr. Brennen had told him about it.

Mr. Wadsworth stated that he is troubled by what is going on with applicants clearly violating a tradition of one dwelling per lot. He stated that he will recommend supporting the three appeals of building permits.

Mr. Glennon stated that he would also support the three appeals for the same reason expressed by Mr. Wadsworth because the town has followed the practice of one dwelling per lot forever. Mr. Glennon noted that the entire purpose of the Zoning Bylaws is to protect the health, safety, convenience and general welfare of the town and its natural resources and features, quoting Section 104 of the Zoning Bylaw. He stated that it is clear what should happen. He noted that the Building Inspector did what he thought was right at the time and the Planning Board will typically defer to the Building Inspector. He stated that this call could go either way and when in doubt he refers to the stated purposes of the Zoning Bylaw. He restated his support for the appeals, noting that nobody did anything wrong. He noted that as developable land becomes more scarce there will be more challenges to interpretations of the Zoning Bylaw.

MOTION: Ms. Turcotte made a motion, and Ms. Ladd Fiorini provided a second, to recommend approval to the Zoning Board of Appeals regarding this request in support of the applicants' appeals for the following ZBA Cases:

- Case #2016-19, Appeal of Building Inspector's Determination for 0 North Street / Franges
- Case #2016-20, Appeal of Building Inspector's Determination for 0 North Street / Abplanalp
- Case #2016-21, Appeal of Building Inspector's Determination for 0 North Street / Brennen

VOTE: The motion carried unanimously, 7-0.

Ms. Judi Vose of 233 Powder Point Avenue asking if it really takes a flip of a coin to decide whether two houses can be permitted on a lot. She stated that across the street from her house is a very small lot where it has been allowed to construct two houses. Mr. Glennon noted that this topic is not on the Planning Board's agenda but he would be happy to include it on the next agenda. Mr. Casagrande advised Ms. Vose to speak with the Building Inspector. He noted that some property owners are finding creative ways to save antique homes by making them guest houses.

PREPARATION FOR ANNUAL TOWN MEETING 2017

Discussion Regarding Recodification of the Duxbury Protective (Zoning) Bylaw: Ms. Massard reported that she, Mr. Glennon and Mr. Casagrande attended a recent Board of Selectmen meeting to discuss recodification of the Zoning Bylaw. She reported that the Finance Committee is also discussing the feasibility of hiring a consultant for this project.

Ms. Massard stated that she has requested additional staff because of the amount of work for the Zoning Bylaw recodification, the Comprehensive Plan update, and amendment of the town's zoning maps. She stated that she intends to contract out all three projects but there is still a lot of work required to oversee them.

TOWN CLERK
2017 JAN 31 PM 3:14
DUXBURY, MASS

Mr. Glennon asked if there could be a savings in overlapping the projects, and Ms. Massard replied that there would be a savings if one consultant oversaw both the recodification and the Comprehensive Plan update. However, the Board of Selectmen would like the recodification on the front burner and the Planning Board has made the Comprehensive Plan update a top priority, and both projects cannot be performed simultaneously by one consultant. Ms. Massard reported that one of the town's regional planning agencies, the Metropolitan Area Planning Council (MAPC) has offered technical assistance with the Comprehensive Plan. She noted that the Planning Department has very limited staffing and no supporting staff is being considered.

Mr. Glennon noted that the Planning Board is supportive of the Comprehensive Plan update. Ms. Massard agreed it is important because the town has an aging population and fewer children, and there is not enough housing to support the aging population. She also noted that the recodification is important to the town.

Mr. Wadsworth stated that he has watched zoning go through both successes and failures, and recommended that a town committee should work with the consultant on the recodification of the Zoning Bylaws so that the public can have a better understanding of the work that is being done. Ms. Massard stated that the Planning Board could serve this role.

Discussion of Solar Overlay District Sites: Ms. Massard noted that this topic was already covered earlier in the meeting under the public hearing for a Solar Photovoltaic Overlay District.

Other Potential Articles for Annual Town Meeting: Ms. Massard distributed copies of a citizen petition article to create a Battelle Waterfront Village Overlay District, and also distributed copies of a landowner petition by Mr. Matthew Tedeschi who would be affected by the passage of an article to direct property owners to file either a Residential Conservation Cluster or Planned Development application for larger lots with more dwelling units on a lot. She also distributed copies of a spreadsheet of articles for Annual Town Meeting entitled, "Working Draft Compiled by Planning Office of Duxbury, ATM 2017" dated December 14, 2016. She noted that there are nine zoning articles, reviewing the list.

Mr. Bear asked if it had been determined not possible to draft language for a moratorium on recreational marijuana establishments, and Ms. Massard responded that after a good deal of debate the state legislature took the conservative approach of waiting to implement its regulations on them. She stated that although she had been advised that there was not enough time, a group approached Town Manager and now Town Counsel has provided language and has advised the Town of Duxbury to include the moratorium on this year's Annual Town Meeting warrant as shown.

PLANNING DIRECTOR REPORT

Informal Discussion Regarding Pervious Pavement at Duxbury Marketplace: Ms. Massard introduced Mr. Rob Fawcett of 10 Herron Way, who recently purchased the Duxbury Marketplace on Depot Street across from Foodie's plaza. She noted that Duxbury Marketplace has been in existence since the 1970s and is now in need of updating, including deferred maintenance such as parking. She distributed copies of a site plan entitled, "ALTA/ACSM LAND TITLE SURVE [SIC], 15-45 DEPOT STRE [SIC], DUXBURY, MASSACHUS [SIC]," dated March 30, 1998, latest revision March 2, 2006, prepared by R.E. Cameron & Associates, Inc. in Norwood, and also distributed a hand-drawn sheet entitled, "Storm water Management & Paving Improvements @ 15-45 Depot Street, Duxbury, MA," dated December 2016.

Ms. Massard stated that she offered for Mr. Fawcett to attend tonight's meeting for an open dialogue with the Planning Board to find out if pervious pavement could be an option for Mr. Fawcett to pursue. She stated there are approximately 90-100 existing gravel parking spaces that are becoming compacted. She stated that pervious pavement would address stormwater issues, and merchants are excited about the potential to improve traffic and therefore improve business.

TOWN CLERK
JAN 25 10:15 AM '17
DUXBURY MASS.

Ms. Massard stated that the benefits of pervious pavement are drivability and accessibility. Mr. Fawcett is considering pulling out the gravel and replacing it with a combination of pervious pavement and asphalt. The pervious pavement would increase the permeability of the site because the existing gravel has become hard-packed. She asked if Administrative Site Plan Review would be needed or if Mr. Fawcett could instead submit revised drainage calculations since there is no change in other characteristics of the site.

Mr. Bear stated that there is a long back story to site coverage in Neighborhood Business Districts in the town, noting that he and Ms. Ladd Fiorini served on a town committee to review the matter for an Annual Town Meeting zoning amendment that was indefinitely postponed. He stated that the Zoning Bylaw treats gravel as permeable although it is common knowledge that over time gravel becomes impermeable. Mr. Bear stated that gravel is not a good surface for shopping districts. The ideal situation would be a permeable surface that catches stormwater; however, it is difficult to meet lot coverage requirements. With permeable pavement, water gets through to the soil without being treated. Mr. Fawcett stated that they would excavate underneath and add an infiltration.

Mr. Glennon stated that this appears to be a modification of a site plan. Ms. Turcotte stated that it might be considered a minor modification.

Mr. Wadsworth stated that he is not a supporter of pervious pavement because it is an expensive material and it is expensive to maintain also. Instead the parking lot should be paved with pollutants directed and treated. He noted that swales, grassy areas and rain gardens are not expensive and provide stormwater treatment. Mr. Fawcett responded that he is open to solutions but he just wants to get rid of the gravel. Ms. Massard suggested that Mr. Fawcett look into Best Management Practices at the University of New Hampshire Stormwater Center.

Mr. Fawcett asked if the process would be a modification of the special permit, and Ms. Massard replied that it would be looked at, noting that Administrative Site Plan Review would most likely be required.

OTHER BUSINESS (continued)

Planning Board Meeting Schedule: Ms. Massard suggested that the Planning Board consider scheduling additional meetings in case the public hearing for the Annual Town Meeting zoning article for Battelle needs to be continued. The public hearing is scheduled for Wednesday, February 8, 2017. Mr. Glennon stated that the applicant had been advised not to seek input from the Planning Director until submitting the article, and now that the article has been submitted it is appropriate. Mr. Wadsworth stated that the proponents put off submitting the warrant article until the day it was due, so now there is limited time for Planning Board review. Ms. Ladd Fiorini recommended that it would be preferable to schedule more meetings than to stay late at meetings.

ADJOURNMENT

The Planning Board meeting adjourned at 10:30 PM. The next Planning Board meeting will take place on Wednesday, January 11, 2017 at 7:00 PM at Duxbury Town Hall, Mural Room, 878 Tremont Street.

MATERIALS REVIEWED

- Planning Board agenda for 12/14/16
- Public meeting notice for Winsor House ASPR
- ASPR application, cover letter and plans, Winsor House Inn (stamped with Town Clerk on 10/31/16)
- Vision property card for 390 Washington Street
- Amory Engineers letter dated 11/22/16 re: ASPR review of Winsor House Inn
- Public hearing notice for ATM zoning article: One dwelling per lot
- Public hearing notice for ATM zoning article: Ground Mounted Solar Photovoltaic Installation Overlay District
- Proposed amendments
- Letter from Atty. W.B. Sullivan dated 12/02/16 re: Request for waiver of filing fees, special permit at 1065 Summer Street
- ZBA referral materials for 390 Washington Street / Weilbrenner
- ZBA referral materials for 43 Ocean Road North / Kelley

TOWN CLERK
2017 JAN 31 PM 1:15
DUXBURY, MASS.

- ZBA referral materials for 151 Gurnet Road / Nikopoulos
- ZBA referral materials for 0 North Street / Frangesh
- Supplemental materials for 0 North Street / Frangesh submitted to Planning Office on 12/05/16
- ZBA referral materials for 0 North Street / Abplanalp
- Supplemental materials for 0 North Street / Abplanalp submitted to Planning Office on 12/05/16
- ZBA referral materials for 0 North Street / Brennen
- Emails between V. Massard and B. Glennon et.al dated 11/28/16 re: Recodification and Comprehensive Plan – Project/Staffing Breakout
- Three tables (undated) prepared by staff with heading on page 1, “Planning Department Standard Workload – no projects and about 3 TM articles/year*”
- Amory Engineers invoice #14601A dated 12/05/16 re: Winsor House Inn
- Amory Engineers invoice #14601B dated 12/05/16 re: 1065 Summer Street
- Amory Engineers invoice #14601C dated 12/05/16 re: Teakettle Lane
- PB minutes of 11/09/16
- PB minutes of 11/16/16
- PB meeting schedule for 2017
- OCPC minutes of 10/26/16
- Construction Cost Estimates dated November 2016 from Building Department

TOWN CLERK
 2017 JAN 31 PM 1:16
 DUXBURY, MASS.

DISTRIBUTED AT MEETING

- Letter from M. Casey of South Shore Survey dated 12/13/16 re: Winsor House Inn ASPR
- Email from J. Lampert to V. Massard dated 12/14/16 re: Zoning article, One Dwelling per Lot
- “Green Communities that Adopted As-of-Right Siting through Renewable Energy / Alternative Energy Generation in Designated Locations” hand-out from S. Pickering
- “Working Draft Compiled by Planning Office of Duxbury, ATM 2017” spreadsheet dated 12/14/16
- Battelle Waterfront Village Overlay District warrant article submitted to Planning Office on 12/01/16
- Letter from M. Tedeschi dated 12/02/16 re: ATM warrant article for 1065 Summer Street
- Duxbury Marketplace site plan entitled, “ALTA/ACSM LAND TITLE SURVE [SIC], 15-45 DEPOT STRE [SIC], DUXBURY, MASSACHUS [SIC],” dated March 30, 1998, latest revision March 2, 2006, prepared by R.E. Cameron & Associates, Inc. in Norwood
- Hand-drawn sheet entitled, “Storm water Management & Paving Improvements @ 15-45 Depot Street, Duxbury, MA,” dated December 2016

SIGN IN SHEET

Duxbury Planning Board
December 14, 2016

Public Meeting, ASPR:
Winsor House Inn / 390 Washington Street

Public Hearing, Zoning Article for ATM 2017:
One Dwelling Per Lot

Public Hearing, Zoning Article for ATM 2017:
Ground Mounted Solar Photovoltaic Overlay District

TOWN CLERK
2017 JAN 31 PM 1:16
DUXBURY, MASS.

Please print your name and address for our records:

Name

Address:

Lenny Rowe

WATD - Reporter

Seth Pickering

DOER / GREEN COMMITTEES DIV.

Nancy Shyne

840 Keene St. Duxbury

Joe McGrail

96 MYRTLE ST DUXBURY

Paul & Deirdre Gracetta

62 Myrtle St, Duxbury

Michael DiVirsilio

270 North St, Duxbury

Alex Marcans

44 CHAUNTER MFC DR DUXBURY,

Richard Jeffers

1047 Summer St.