



Town of Duxbury Massachusetts Planning Board

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DUXBURY, MASS.

Minutes 05/24/2017

The Planning Board met on Wednesday, May 24, 2017 at 7:00 PM at the Duxbury Town Hall, 878 Tremont Street, Mural Room.

Present: Scott Casagrande, Chairman; David Uitti, Vice Chairman; John Bear, Jennifer Turcotte, and George Wadsworth.

Absent: Cynthia Ladd Fiorini, Clerk; and Brian Glennon.

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

Mr. Casagrande called the meeting to order at 7:03 PM.

OPEN FORUM

No items were brought forward for Open Forum.

ANR PLAN OF LAND: 971 & 977 TEMPLE STREET / IVIL & KARLBERG

Present for the discussion was the applicants' representative, Mr. Rick Savant of Stenbeck & Taylor in Marshfield. Ms. Massard explained that the applicants propose lot line adjustments in order to accommodate an activity in the rear of 971 Temple Street. She noted that the plan was revised slightly to remove a small triangle of land from the eligible land area because it was less than 50 feet in width. Mr. Casagrande noted that there appears to be plenty of land available on each lot. Ms. Massard stated that there are no zoning issues and recommended endorsement.

Mr. Bear asked why the lot line is being changed on a small six-foot wide portion of land shown as Parcel B, and Ms. Massard replied that the applicants decided it would be cleaner to move the lot line to match the existing fence line. Mr. Wadsworth asked which parcel is going to which owner, and Mr. Savant of Stenbeck & Taylor stated that Parcels A and B would be conveyed to the owner of 977 Temple Street, and Parcel C would go to 971 Temple Street. Mr. Wadsworth noted that each lot has over 200 feet of frontage and no change in frontage is proposed.

MOTION: Mr. Uitti made a motion, and Ms. Turcotte provided a second, to endorse a Plan of Land entitled, "Plan of Land in Duxbury, MA, Showing the Division of Parcels 023/102/002 & 023/102/000, 977 and 971 Temple Street, Drawn for Kevin Karlberg and Ron Ivil," dated 04/28/17, drawn by Stenbeck & Taylor, Inc., 844 Webster Street, Suite 3, Marshfield, MA 02050, scale 1" = 40,' as not requiring approval under Subdivision Control Law.

VOTE: The motion carried unanimously, 5-0.

Planning Board members endorsed the mylar and two copies of the plan.

INITIAL PUBLIC HEARING, DEFINITIVE SUBDIVISION: 232 SURPLUS STREET / JRM DEVELOPMENT REALTY 2010 LLC

Mr. Casagrande opened the public hearing at 7:13 PM. Present for the discussion were the applicants, Mr. John Cully and Mr. Daniel Warsowick, and their representative, Mr. Rick Grady of Grady Consulting in Kingston. Also present was Mr. Peter Palmieri of Merrill Associates, the town's consulting engineer.

Mr. Casagrande recused himself from the discussion, as he is a business acquaintance with one of the applicants. He handed the gavel to Mr. Uitti to lead the discussion for this hearing.

MOTION: Mr. Wadsworth made a motion, and Mr. Bear provided a second, to waive the reading of the public hearing notice and correspondence list, both of which are on file at the Planning Department.

VOTE: The motion carried unanimously, 4-0.

Mr. Uitti asked if the applicant agrees to holding tonight's public hearing with a quorum of four. Mr. Grady responded that he is comfortable with Ms. Ladd Fiorini and Mr. Glennon exercising the Mullin Rule so they can participate in future public hearings for this application.

Mr. Uitti asked Ms. Massard to provide an overview of the project. She noted that the Planning Board has reviewed two conceptual plans already, and a number of residents are interested in the project. The only waiver requested is the road width which must be revised due to Fire Department requirements for a road width of 20 feet (18 feet with one-foot Cape Cod berms on either side) rather than the 14 feet required for a Local Street. Revised plans will be submitted for the continued public hearing.

Mr. Grady provided further background. He recounted that the Planning Board had reviewed conceptual plans at its March 8 and March 22, 2017 meetings. It was originally thought that the existing historic dwelling may need to be removed in order to meet roadway width for the proposed subdivision. Reducing the layout from 50 feet to 40 feet allows the applicant to construct the roadway on the easterly side of the property and provide 200 feet of frontage for each lot, and also would allow the historic dwelling to remain. The proposed roadway width is 14 feet with 12-inch berms on each side and a hammerhead turnaround for the local street, and he is aware of the Fire Code requirements and agrees to meet them.

Mr. Grady stated that the property lies within the Residential Compatibility District, and the front lot is within the Aquifer Protection Overlay District (APOD) and it meets the 60,000 square foot area requirement. The two rear lots are outside the APOD and their lot size is at least 40,000 square feet in area.

Mr. Grady stated that the soils are sandy and he will be glad to schedule perc tests with the Planning Board's consulting engineer. The elevation at the street is 30 feet and it slopes up to an elevation of 56 feet in the rear of the property. The roadway will slope uphill from Surplus Street, and swales will collect runoff along the roadway. The slope will be a 2.5 to 3 percent grade. He noted that Parcel B on the proposed plan will be a drainage area with forebays. Each dwelling will have its own septic and the water main will run from Surplus Street to the turnaround, and a hydrant will be installed at the turnaround. Mr. Grady stated that they hope to maintain the existing driveway and so have created a small easement over Parcel B. A landscape plan has been submitted with a planting plan for the drainage basins.

Mr. Uitti invited Planning Board comments. Mr. Bear asked about the existing stone wall that runs along the driveway, and Mr. Grady replied that it is decorative and they hope to retain it. Mr. Bear asked if the stone fence will be part of a Homeowners' Association, and Mr. Grady responded that through deeds the owner of 232 Surplus Street will have the benefit of an easement through Parcel B, and Lot C will have responsibility for the stone wall. (Lot C is the proposed location of the existing historic structure and environs.)

Mr. Wadsworth asked if the cul-de-sac is intended as a paper road, and Mr. Grady responded that they are requesting a waiver to allow a hammerhead turnaround within the cul-de-sac layout rather than construction of a full cul-de-sac, as has been done on other similarly scaled projects. Mr. Wadsworth asked what would happen if the

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waiver is not granted, and Mr. Grady replied that it may affect the roadway configuration and possibly the existing driveway.

Ms. Turcotte noted that because part of Lot B is in the APOD, how would it not require another 20,000 square feet in area for a total of 60,000 square feet. Mr. Grady responded that as long as the house and septic are kept outside the APOD then it would meet the Residential Compatibility zoning requirements of 40,000 square feet according to Zoning Bylaws.

Ms. Turcotte asked about the separation from groundwater, and Mr. Grady replied that they have not witnessed groundwater perc tests knowing that the consulting engineer would want to witness them.

Ms. Massard asked Mr. Grady to elaborate on the existing restrictions on Lot A at the rear of the property. Mr. Grady stated that according to the deed no structures can be placed on this restricted area until the property is conveyed.

Mr. Grady added that the Town Historian has suggested Nash Road for the street name to honor the former owners who lived there for decades, and the applicants have no issue with the proposed street name.

Ms. Massard noted that waivers are sometimes granted when some public benefit can be gained, and asked if there is some plan to protect the historic dwelling. Mr. Grady stated that there is no current plan but the applicants are willing to discuss it. Ms. Massard stated that a clear public benefit is needed in order for the Planning Board to grant a waiver, and that she would expect the applicants to work with the historical preservation groups in Duxbury to agree on future protections for the historic dwelling. Mr. Grady stated that he would prepare a draft agreement and offered to work with the local historic preservation experts for their input.

Mr. Uitti requested comments from Mr. Palmieri of Merrill Engineers, the town's consulting engineer. Mr. Palmieri stated that most of the issues have been covered already. He noted that easements can sometimes create issues between property owners and suggested that the lots could be reconfigured in order to avoid the use of easements.

Mr. Uitti invited public comment. Mr. Fernando Guitart of 14 Powder Point Avenue stated that the waiver seems to be significant, and asked what would happen if it is not granted. Mr. Cully, the applicant, stated that a waiver would be one way to achieve the number of lots that can be created and moving the roadway would be another way.

Mr. Guitart asked for a further explanation of waivers. Ms. Massard stated that Subdivision Rules and Regulations are designed to be by-right, and Mr. Grady has shown that four lots could be created that meet those regulations. There appears to be support from the community to grant a waiver on the road layout in order to preserve the historic dwelling. Subdivision Rules and Regulations require a 160-foot paved circle to allow emergency vehicle turnaround and a 14-foot wide road. However, the Fire Department requires a width of 18 feet. Rather than doing that, the Planning Board is being asked to look at the requirements from a community character point of view and a waiver is being requested to reduce the road layout width from 50 to 40 feet and no 150-foot diameter turnaround while preserving the rural and historic character of the site. She noted that the proposed road creates frontage. She stated that the applicants are actually doing a favor by approaching the Town of Duxbury from the aspect of historic preservation and rural character where they could otherwise proceed by right.

Mr. Uitti read in Subdivision Rules and Regulations #3.3 that "...the Board reserves the right to waive strict compliance with these Subdivision Rules and Regulations when, in the judgment of the Board, such action is in the public interest and consistent with the intent and purpose of these Subdivision Rules and Regulations and Subdivision Control Law." Mr. Guitart stated that it seems reasonable to consider the historic character of the town.

Ms. Jeanne Clark, formerly of 33 Surplus Street, noted that Surplus Street was one of three ways laid out by the Pilgrims. She stated that she is extremely opposed to the idea of running up a road along this historic property in order to get more lots. She stated that it is all about money and it should not happen. She urged the Planning Board to consider turning down the application.

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Ms. Janet Ritch of 992 Tremont Street stated that she is a member of the Local Historic District Commission. She stated that from an historic perspective, the existing dwelling is an important house. It was the site of the first school in Duxbury. She asked the Planning Board to consider that the house needs to be preserved.

Mr. David Corey of 47 Surplus Street stated that he has been working on making Surplus Street a Local Historic District. The dwelling at 232 Surplus Street is extremely significant because it is the 27th oldest house in Duxbury. In 1714 it changed from a schoolhouse to a dwelling. He stated that he is pleased with the proposal to preserve the historic house, but as soon as it is sold it could be torn down. He stated that the property needs a deed restriction or Local Historic District status. He stated that he would support the application for a Definitive Subdivision as long as the historic house is preserved.

Mr. Stewart Gallagher of 5 Possum Run asked about the roadway configuration and streetscape. Mr. Cully stated that Parcel B on the front of the lot will have a retention basin, which is a depression in the ground. Mr. Cully asked if it would be similar to the large retention basin at the base of Bow Street, another recent subdivision, and Ms. Massard responded that the retention basin on Surplus Street will not be as large. Mr. Gallagher asked about the house size, and Mr. Cully replied that they will be in the range of 3,000 to 3,200 square feet. Mr. Cully noted that the three lots will not be released for conveyance and construction until the roadway is built.

Mr. William McArdle of 279 Standish Street stated that he is a member of the Duxbury Rural and Historical Society. He presented three areas of discussion: preservation of the streetscape, preservation of the rural landscape, and a deed restriction. He noted that four generations of Nashes resided at this property, and it is of significant historical relevance. From a landscape point of view it is a beautiful piece of land, with rural and natural vistas and unique views. He stated that minimal disturbance would be optimal. He stated that the Duxbury Rural and Historical Society recommend historic preservation through deeds or a Local Historic District. Granting a waiver alone does not protect the house from future teardown. He noted that it is critical to collaborate on long-term solutions.

Ms. Lorrie Hall of 175 Abrams Hill stated that the property is adjacent to a golf course. She asked if there is any way to protect trees along the north end of the property that abuts the golf course. She noted that recent development along other portions of the golf course have removed trees for a view of the golf course, which destroys the rural character of the land. She also recommended that trees along the east side of the property be preserved, and also the historic dwelling. Ms. Massard reported that she had spoken with the commodore of the Duxbury Yacht Club, the owner of the golf course, and this is a "slice recipient area." Ms. Massard noted that trees provide a good way to protect a house from the golf course.

Mr. Sam Davenport of 14 Summer Street stated that he would like to reiterate the importance of the property and urged the Planning Board to find a way to accomplish a long-term solution to preserve the historic house and barn. He noted that the house and barn go together, and whatever restriction is placed on the house should apply to the barn as well.

Mr. Uitti thanked the members of the public who took the time to attend tonight's public hearing. He noted that the first step is to find some pragmatic way to make sure that the historic house is preserved. He stated that it is wonderful that the applicants are proposing to save it from demolition. Ms. Massard reminded the Planning Board that if no waivers are granted, the roadway would have to go in the middle of the lot and the historic house would likely need to be razed, and there would be no way to say no.

Mr. Wadsworth asked if a 50-foot way and three lots could be created if the existing dwelling is relocated. Mr. Grady responded that it may be possible but it is not desirable for the applicants, noting that residents would like to preserve the house as is.

Mr. Uitti invited final comments from Ms. Massard. She stated that perc tests will be done and draft conditions will be prepared for the continued public hearing. Mr. Wadsworth stated that preservation of the house is very important and he would like to see the historic preservation succeed. Mr. Bear suggested a possible condition for a self-imposed restriction with a clear intention for a future Local Historic District. Mr. Grady stated that he would be happy to review and use any template that any of the historic entities may provide him.

MOTION: Ms. Turcotte made a motion, and Mr. Bear provided a second, to continue the public hearing for the 232 Surplus Street / JRM Investment Realty 2010 Definitive Subdivision to Wednesday, June 14, 2017 at 7:20 PM.

VOTE: The motion carried unanimously, 4-0.

The public hearing closed at 8:03 PM.

PLANNING BOARD COMMENT ON OLD COLONY PLANNING COUNCIL ROUTE 3A CORRIDOR STUDY

Mr. Casagrande resumed chairmanship. He asked for Ms. Massard's overview of this topic. Ms. Massard stated that the Old Colony Planning Council (OCPC) did a corridor study of Route 3A, which is Tremont Street in Duxbury. The Planning Board is being asked for any comments or anything that may have been missed in the study. Once comments are submitted to OCPC they will issue a final study to Mass Highway and other state highway departments. Mr. Wadsworth asked how wide the taking is for the road, and Ms. Massard responded that it is state controlled and OCPC and the town's Sidewalk and Bikepath Committee are looking at the recorded layout for a possible sidewalk and/or Bikepath along Tremont Street from Chestnut Street to Prior Farm Road. Mr. Wadsworth stated that there may not be enough space available within the layout for a sidewalk or path and Ms. Massard responded that it may require agreement from property owners. Mr. Wadsworth commented that Route 3A needs a sidewalk or Bikepath. Ms. Turcotte agreed, noting that there have been several bicycle accidents.

Mr. Bear stated that the Island Creek expansion should not have been allowed to be occupied until traffic lights are installed at Route 3A at Exit 10. Ms. Massard reported that the applicant appealed the requirement to fund the traffic lights to the Housing Appeals Committee and that requirement was changed in a remand. The applicants paid for the 25% design study and the rest of the funding now falls to the communities. She noted that the intersection there was not listed as the most dangerous intersection, and the Town of Duxbury needs to carefully allocate its limited reserves. She noted that the state will not provide funding until the Towns of Duxbury and Kingston complete the design study. Once it is designed it may be eligible for up to 80 percent of construction costs through the state. Mr. Bear stated that he believes there may be a leak in the reporting of the number of accidents at that intersection. Ms. Massard stated that the local police department reports accidents to the state. Mr. Wadsworth stated that he was involved in an accident there and said that the ramp should be fixed. He also noted that during late afternoons heading southwest on Route 3A toward Exit 10, there is a glare issue making visibility very difficult. Ms. Turcotte agreed, noting that the issue starts at Parks Street.

Ms. Massard noted that the intersection of Tremont Street, Chestnut Street and Tobey Garden Street was reported as much more dangerous. She added that Mass Highway will review the report and provide comments. Mr. Bear stated that he was disappointed that OCPC did not recommend reconfiguring the intersection to make opposing streets align. Mr. Casagrande agreed that it is a difficult intersection, noting that while some have fought against traffic lights, certain intersections are becoming more dangerous.

Mr. Casagrande noted that while there may be more accidents at Chestnut Street, vehicles are moving at a much faster speed at Route 3A and Exit 10 and vehicles are crossing two lanes of traffic rather than one, and so the accidents there may be more serious. Ms. Massard thanked the Planning Board members for their comments which will be incorporated into a comment letter to OCPC.

ANNUAL TOWN MEETING 2018 ZONING DISCUSSION: COVERAGE IN COMMERCIAL AREAS

Ms. Massard referenced a staff report included in the Planning Board's packet, noting that a lot of work had been done on this topic in the past by Ms. Ladd Fiorini, Mr. Bear and Mr. Wadsworth who had served on a subcommittee. Ms. Massard recommends adding language to Zoning Bylaws to allow flexibility in parking standards to allow for adequate and safe stormwater treatment by paving rather than allowing gravel, which is dirty, gets potholes and is

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difficult to plow and maintain, or permeable pavement, which does not hold up and tends to break up. Specifically, language could be added to allow the Zoning Board of Appeals (ZBA) to waive coverage requirements through a special permit in the event that parking standards require greater than 50 percent coverage for allowed uses, where pervious pavement or gravel could otherwise be shown on the plan that would satisfy the 50 percent coverage requirement as described in the bylaw and where stormwater treatment standards can be satisfied.

Ms. Massard stated that she has done the math, and only one percent of land in the Town of Duxbury is zoned commercial, and most of it is existing businesses. She noted that there is no flexibility built into the Zoning Bylaw currently. The greater interest here would be water quality; however, aesthetics are also relevant.

Mr. Bear provided background on the subcommittee's former recommendation to allow 20 percent building coverage and 60 percent lot coverage, leaving open space. He noted that very few commercial properties would be affected, mainly by a proposed change in use. The thinking at the time was to reflect what was actually happening on commercial properties. Gravel was allowed as pervious coverage but over time it hard packs and becomes impervious so properties end up with 60-75 percent coverage.

Mr. Casagrande asked if it would be effective to allow up to 75 percent coverage so that the ZBA would not have to get involved. Mr. Bear stated that the purpose of open space is to allow rainwater to drain but hard surfaces are also needed to manage stormwater. Ms. Massard noted that the Millbrook Station development discussed earlier tonight was designed as though impervious pavement would be used entirely even though part of it would be pervious pavement.

Mr. Wadsworth noted that stormwater treatment has improved over the past ten or fifteen years. He stated that without open space stormwater drainage must go underground which is more expensive to maintain, so it is easier to use swales. However, with less open space swales become deeper. He stated that larger buildings require more pavement, and it can be difficult to predict how much parking might be required for certain uses. He stated that property owners should think twice before paving a property edge to edge. He cautioned that property owners should have some land to work with for drainage. Mr. Casagrande stated that 75 percent coverage leaves 25 percent open space to work with. Ms. Massard suggested considering both 60 percent and 75 percent coverage requirements and getting input from engineers. She stated that new projects may need to be treated differently than redevelopment.

ANNUAL TOWN MEETING 2018 ZONING DISCUSSION: LOT DISTURBANCE / GRADING

Ms. Massard distributed an example of a general bylaw from the Town of Wayland as a way to use stormwater design guidelines rather than a Zoning Bylaw to regulate stormwater on residential lots. She noted that the Wayland example also includes land disturbance, requiring a review when a certain number of trees are removed. Residential development is probably over 90 percent of the land use in Duxbury.

Ms. Massard noted that in the Town of Duxbury there is a vocal group that would like to address stormwater when there are changes to a residential property. She stated that with elevated septic now property owners want to fill up the property to meet the elevation of the septic. She stated that residents are also concerned about tree cutting, noting that there are limitations to what can be regulated on private property. She noted that the sample bylaw is something for the Planning Board members to consider for future discussion.

Mr. Casagrande noted that this is a potentially touchy issue, noting that some property owners along the waterfront are building up their properties in order to get out of a flood zone, and in some cases to improve a view of the water.

Mr. Uitti asked what would trigger the review for those new standards, and Ms. Massard responded that it is a crucial part of the discussion and there are still many considerations to work out. She stated that she would like to hear what the Planning Board has to say on these matters. She noted that massing standards are another, separate issue that she will be looking into. She stated that the Building Inspector supports her efforts to address these issues.

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PLANNING DIRECTOR REPORT

Comprehensive Plan: Ms. Massard reported that people from the Metropolitan Area Planning Council (MAPC) came to an in-house kickoff meeting and will attend the June 28 the Planning Board meeting to discuss the Comprehensive Plan process. She stated that groups will need to assign primary contacts as ambassadors, and she will start reaching out to get this done. She noted that on June 22 the Lieutenant Governor is expected to come to Duxbury to sign the Community Compact.

Mr. Casagrande stated that it is good that the process is moving along, noting that he would like every resident in town to fill out a survey so that everyone's voices are heard.

OTHER BUSINESS

Meeting Minutes:

MOTION: Mr. Uitti made a motion, and Mr. Wadsworth provided a second, to approve meeting minutes of May 10, 2017 as written.

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

Engineering Invoices:

MOTION: Mr. Wadsworth made a motion, and Mr. Uitti provided a second, to pay the following Amory Engineers invoices:

- #14658A dated May 8, 2017 in the amount of \$742.50 for services related to 113 Tremont Street / Hamori
- #14658B dated May 8, 2017 in the amount of \$1,012.50 for services related to Millbrook Station / Juliano.

VOTE: The motion carried unanimously, 5-0.

MOTION: Ms. Turcotte made a motion, and Mr. Uitti provided a second, to pay Merrill Engineers invoice#4285 dated May 10, 2017 in the amount of \$2,465.00 for services related to 308 Summer Street / DelPrete.

VOTE: The motion carried unanimously, 5-0.

Committee Appointment:

MOTION: Mr. Wadsworth made a motion, and Mr. Uitti provided a second, to recommend that the Board of Selectmen re-appoint Mr. Richard Prone as representative for the Town of Duxbury to the MBTA Advisory Board.

VOTE: The motion carried unanimously, 5-0.

ADJOURNMENT

The Planning Board meeting adjourned at 9:01 PM. The next Planning Board meeting will take place on Wednesday, June 14, 2017 at 7:00 PM at the Duxbury Town Hall, Mural Room.

MATERIALS REVIEWED

- PB agenda for 05/24/17
- ANR application and plan for 971 & 977 Temple Street / Ivil & Karlberg
- Assessor's property cards and GIS map for Temple Street properties
- Public hearing notice for Definitive Subdivision application for 232 Surplus Street / JRM Investment 2010
- Definitive Subdivision application, plans and materials
- Assessor's property card
- Letter from P. Palmieri of Merrill Engineers dated 05/17/17 re: Peer review – Definitive Subdivision Plan, 232 Surplus Street, Duxbury

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- Route 3A Corridor Study draft dated February 2017 submitted by OCPC
- “Staff discussion starter for NB coverage May 24th agenda, 2017s” staff report
- PB draft minutes of 05/10/17
- Amory Engineers invoice #14658A dated 05/08/17 re: 113 Tremont Street / Hamori
- Amory Engineers invoice #14658B dated 05/08/17 re: Millbrook Station
- “Planning Board Committee Appointments” spreadsheet dated 04/14/17
- ZBA decision for 151 Gurnet Road / Nikopoulos (granted)

Presented at Meeting:

- “Stormwater and Land Disturbance” General Bylaw from the Town of Wayland
- Memorandum from T. Mayo to PB dated 05/24/17 re: Definitive Subdivision, 232 Surplus Street, Duxbury
- Emails between D. Grant, T. Kelso and J. Cully dated 05/05/17 – 05/24/17 re: 232 Surplus Street – JRM Investment Realty
- Merrill invoice #4285 dated 05/10/17 re: 308 Summer Street

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