



## MINUTES OF MEETING ZONING BYLAW REVIEW COMMITTEE

Date: August 17, 2011

SCHEDULED TIME: 7:30 p.m.

Location: SENIOR CENTER (Weyerhauser Room), 10 Mayflower Street

Minutes Prepared By: Martin Desmery

Members Present: Paul Boudreau, Scott Casagrande, Martin Desmery, Robert Fitzpatrick, Nancy A. Johnson, Mary Steinke, George Wadsworth.

Members Absent: Judi Barrett, Freeman Boynton, Jr., Fred Clifford.

Also Present: Tom Broadrick, Planning Director.

TOWN CLERK  
11 SEP 28 AM 11:33  
DUXBURY MASS

---

Meeting called to order by the Chair, Robert Fitzpatrick, at 7:44 pm.

The minutes of the meeting on June 21, 2011, were reviewed and unanimously approved, with an amendment to reflect the adjournment at 10:03 pm.

The minutes of the meetings on July 7 and July 20, 2011, were reviewed and unanimously approved without amendment.

Marty Desmery will deliver the approved minutes to the Town Clerk. From now on, Marty will deliver the prior minutes (through Diane Grant) in advance of the next meeting, and we will dispense with the formal reading of the minutes.

Bob Fitzpatrick announced that administrative support for the ZBRC will be moved to Diane Grant of the Planning Department.

Bob Fitzpatrick reported on his conversation with Town Counsel about the status of the ZBRC records. ZBRC members should assume that all records and information will be made public. Tom Broadrick, Diane Grant, Scott Lambiase and Ted Flynn should be copied on email communications regarding the business of the ZBRC.

Bob Fitzpatrick reported that he spoke to Judi Barrett about her zoning diagnostic. Judi stressed that the diagnostic should be used simply as a tool to engage others in a dialogue about the Bylaws.

Each member present at the meeting gave an update on information gathered from their interviews or records review:

George Wadsworth reported that he is scheduled to meet with the Planning Board on the matters related to the ZBRC's charge on August 29.

Bob Fitzpatrick reported that he spoke to Selectmen Shawn Dahlen and Ted Flynn. He brought them both up to speed on the ZBRC structure and approach. They support the work of the ZBRC but were not prepared to identify any particular bylaws that require our attention. They will wait to review the ZBRC report.

Bob also spoke to a property owner on King Caesar Road who had a matter before the ZBA concerning the expansion of a non-conforming deck that required a special permit. The owner believed that the special permit process was extremely complicated for such a modest expansion. The suggestion was made to review the bylaw on expansion of non-conforming uses to see if it can be simplified. 401.2(4).

Mary Steinke reported that she reviewed the zoning diagnostic with the owner of a local business who has applied for special permits in the past. He concurs with the need for site plan review. He thinks the language on coverage issues could be clarified. He also expressed frustration at the fact that he went to the ZBA hearing with all documents that he expected the ZBA would need, but he was asked for more documents and had to wait for another hearing date. Meanwhile, he had lawyers and engineers on the clock, and the cost of materials went up significantly.

One of Mary's interviewees suggested that personal opinions of ZBA members can sometimes get in the way of projects, and raised the question, "Should ZBA members comment on lighting, siding, and other things that are not part of the bylaws?"

Mary also spoke to someone who owns several condos on Joselyn Avenue. Mary's contact reported that communication between the homeowner, the builder and the town was the biggest problem in attempting to expand a deck.

Mary also went through old minutes of ZBA hearings. She found a relatively short list of people who had difficulty with their projects. Mary and the ZBA's administrative assistant (Danielle) discussed the fact that homeowner's must supply the town with 22 sets of blueprints, and there is a lot of duplication of paperwork within the files.

One of Mary's interviewees suggested that the Town should provide applicants with a checklist of everything required by the ZBA. Paul Boudreau noted that the ZBA has a checklist, which was recently amended, and more hearings could get done if the ZBA streamlined the information process.

There may be a way of to go through the checklist prior to the meeting - i.e., develop some type of "Completeness Review." It was noted that Scott Lambiase often helps applicants who come into the office with questions. It might be helpful to have a more formalized process to help applicants, especially homeowners, with the process. The clarity of the navigational aids could be as important as the text of the bylaws himself.

Tom Broadrick noted that other communities have a permitting guidebook that lays out the process and the necessary plans, reports and other documents. Even a one-page sheet or checklist would be helpful to homeowners. Paul Boudreau described a one-page sheet with monopoly game-like format that he once used on a project.

Scott Casagrande reported that he received a copy of the letter that Sally Wilson, a former ZBA member, sent to the Board of Selectmen in 2008, stating that the Board of Appeals should have a full time administrator.

Scott spoke with several engineers, who had no problems with the bylaws and did not need charts or navigational aids. The engineers recognized, however, that ordinary citizens could get a lot of value from the charts – maybe as an appendix to the bylaws to serve as a reference.

Scott ran through a number of issues highlighted by his interviewees, including:

The definitions should be clearer regarding the non-conforming structures and uses.

601.4: The section on Hanging Signs was removed. Was this inadvertent?

706.3: Restriction of common space seems to have been inadvertently left off.

Dwelling and Dwelling unit should be updated to state building code definitions.

Wetlands overlay districts should be updated to FEMA flood maps.

404.9: This section allows you to apply for a special permit if you can prove that your property is not within the overlay line. (But Tom Broadrick thinks this section is clear on its face.)

Same issue with soil maps.

Building coverage – 410.4 – intended for small lots. Lots with coverage already over 15% are covered by the non-conforming section. More clarity should be built into the calculation.

ZBA should be reviewing the application independently under the terms of the bylaws, and not allowing mere opinions from referral agencies to influence ZBA actions. Sometimes the ZBA does not have full knowledge about how the other boards have dealt with the problem. Also, the ZBA often just gets opinions about what the referral board likes or does not like about the project, instead of what the bylaws require. For example, the Planning Board should be involved with subdivisions but not with zoning issues.

The Design Review Board should have more weight applied to its suggestions and decisions. This may require applicants to attend the DRB meetings. Nancy Johnson reported that applicants seldom attend DRB meetings. Maybe the DRB should reach

out to the homeowners and invite them to the DRB meeting. This gets back to the need for an assistant. Bylaw provides scanty treatment for the DRB, its role, and its process.

703.1(1) Buffers vs. 703.1(2) portion of buffers. Why is #2 in place? Only delays things. Why have the 125 feet if it's not feasible anyway?

Section 700 should only be a ZBA issue where there is no subdivision of land.

Paul Boudreau reported that he is scheduled to interview the ZBA members on Sept. 19 and will report back to the ZBRC on that meeting.

Nancy Johnson reported that she will interview the DRB members soon. Nancy will tell Bob Fitzpatrick when the DRB is going to meet.

Marty Desmery reported on his conversation with a former ZBA member, who believes that the Bylaws should specify the acceptable dimensions of accessory structures.

Bob Fitzpatrick intends to run a list of the people who applied for a building permit over the last year or so, and send them a letter to invite comments on the Bylaws. Scott Casagrande volunteered to manage that process.

The ZBRC also discussed the need to conduct an open forum for the public, perhaps in late September or early October. But first we all need to get more familiar with the Bylaws and the issues.

Bob Fitzpatrick also wants to understand a little more about the history of the changes to the bylaws – i.e., the evolution of the changes that resulted in the current bylaw. George recalls that a prior zoning committee (CPZBIC) put together a report of all the changes. Tom Broadrick has a whole file in his office. He will look for any exit reports or guiding documents.

Marty was assigned the task of keeping a list of all issues discussed by the ZBRC, organized by section. The list will be updated before each meeting, and members should screen the data to make sure the issues are real.

The ZBRC will pencil in September 7 for its next meeting. Bob will confirm. Since that would fall on the first Wednesday of the month, both George and Freeman will have a conflict because they serve on another committee.

Five members of the public attended this meeting. None spoke.

Meeting adjourned @ 10:10 pm.

List of Documents and Other Exhibits Used at the Meeting: None.