



## **MINUTES OF MEETING** **ZONING BYLAW REVIEW COMMITTEE**

**Date:** November 16, 2011

**SCHEDULED TIME:** 7:30 p.m.

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

**Minutes Prepared By:** Martin Desmery

**Members Present:** Paul Boudreau, Freeman Boynton, Jr., Scott Casagrande, Martin Desmery, Robert Fitzpatrick, Nancy Johnson, Mary Steinke, George Wadsworth.

**Members Absent:** Judi Barrett, Fred Clifford.

**Also Present:** 9 members of the public.

TOWN CLERK  
JAN 19 AM 9:09  
UXBRIDGE, MASS.

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Meeting called to order by the Chair, Robert Fitzpatrick, at 7:40 pm.

### **Minutes**

Minutes of meeting held on October 5, 2011: Discussion and approval deferred because not enough members present at the meeting were in attendance. The minutes will be posted on the website in draft form.

Minutes of meeting held on October 19, 2011: Unanimously approved with the following amendments:

- "Members Absent" should read, "None."
- Delete redundant "only" on the last page and replace with "letter."
- Strike "(Driscoll)" from the end of the first sentence of the last paragraph before "Other Business on page 3.
- Correct spelling of "aesthetics" on page 3.

Minutes of meeting held on November 2, 2011: Unanimously approved with the following amendments:

- Correct spelling of Sarah McCormick's name.

- Edit Tom Tucker's address to Winsor Street.

### Administrative Matters

Bob Fitzpatrick reported that the town has a strategic planning session scheduled for November 19, 2011 from 9:30 am to 12:30 pm. The members of the ZBRC are invited to attend.

### Updates on Information Gathering

Bob Fitzpatrick handed out or discussed the following materials that he received from residents prior to the meeting:

- An email from Kathy Palmer regarding pier issues.
- Comments from Heidi Laird regarding waterfront issues, which had already been distributed to the ZBRC members by Diane Grant. Bob reported that Heidi Laird had sent him a follow up message, which will be distributed to ZBRC members by Diane Grant.
- An email from Bill TenHoor, who was a member of the pier access shoreline study committee, along with a copy of that committee's report.
- An email from Scott Oliver through Diane Grant regarding the activities of the ZBRC. Bob Fitzpatrick will reach out to Scott Oliver to give him a personal update.

Bob Fitzpatrick reported that he is planning to meet with two local attorneys, Tom Tucker and Phil Markella, to discuss ZBRC-related issues.

George Wadsworth reported on his conversation with Kay Foster. Ms. Foster has been involved in many issues related to the Town, especially the Wildlands Trust. Her overriding concern, which has been expressed by others, is that the Town should do more to enforce violations of the zoning bylaws - e.g., two dwellings per lot. She also supports the concept of providing additional staff for the Board of Appeals.

Robert Galvin addressed the ZBRC on several topics. Mr. Galvin is a local attorney with a lot of experience with Duxbury's protective bylaw and land use issues in surrounding towns. Land use is the principal focus of his practice.

Mr. Galvin began by addressing the Wetland Protection Overlay District. He explained how two sets of homeowners (one on Franklin Street and the other on Tremont Street) were faced situations where their properties had been improperly included on the 1971 map. With respect to the property on Tremont Street, three different boards in town developed three different understandings of the meaning of Section 404.9. He believes that the provisions regarding special permits for use and construction in the WPOD should be clarified. He noted that going to Town Meeting to amend the zoning map is no small feat for most homeowners. It can cost in excess of \$15,000 to prove that there is an error in the

map. Galvin suggested that the WPOD bylaw has outlived its usefulness because we now have more knowledge about protecting wetlands than we did in 1971. The Town could decide to eliminate the WPOD bylaw, or make it consistent with what the Conservation Committee thinks the proper limits should be for resource areas and buffer zones.

Mr. Galvin also noted issues with respect to Section 540.3, the residential conservation cluster bylaw. There is an argument that the bylaw may not be enforceable. As a practical matter, a developer will not utilize propose a residential cluster unless the bylaw affords a density bonus and the process is streamlined.

Mr. Galvin suggested that Duxbury consider a bylaw that would allow common driveways.

Regarding piers, Mr. Galvin believes that the bylaw may encourage people to allow their docks to fall into a bad state of repair in order to rebuild them. There is a tension between the bylaw and what is probably best for rebuilding piers. Piers should be higher and built with more solid materials.

Regarding enforcement, concerns expressed by Duxbury's citizens are typical for many towns. The building inspector does not have enough time to go looking for problems. One solution may be to encourage the building inspector to issue tickets. Most logical and rational people respond quickly to \$100/day fines.

Mr. Galvin noted that a lot of towns are adopting a special permit process that allows you to vary dimensional requirements of a bylaw where you can meet special permit standards.

#### Comments from Public

Nine members of the public attended the meeting. Many of them expressed concerns about piers in general, and a particular pier that is currently being built on the Blue Fish River. Mr. Fitzpatrick noted that their concerns appear to be focused less on clarity and more on the content and enforcement of the bylaw related to piers. An engineer with experience regarding piers (Paul Brogna) is expected to attend the next meeting.

#### Other Business

The ZBRC discussed the public forum on November 2, which was well attended. Mr. Fitzpatrick expressed surprise that so many people seemed to be under the impression that the ZBRC was appointed to make substantive changes to the bylaw. Although the ZBRC will pass along concerns expressed by residents regarding policy issues, our focus remains on clarifying the bylaw and making it more user-friendly.

Mr. Fitzpatrick noted that the ZBRC needs to develop a schedule to consider specific issues that we have identified and draft our report to the Selectmen. He also believes that we need two more public meetings - one where we present our interim report, and another where we let the public make comments.

At the next meeting, the ZBRC will discuss Article 300 (Definitions). The particular definitions were assigned to committee members, who will send their lists and comments to Bob Fitzpatrick prior to the next meeting.

Meeting adjourned @ 10:02 pm.

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