



MINUTES OF MEETING
ZONING BYLAW REVIEW COMMITTEE

TOWN CLERK
AM 9:29
DUXBURY, MASS.

Date: October 3, 2012

SCHEDULED TIME: 7:30 p.m.

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

Minutes Prepared By: Martin Desmery

Members Present: Judi Barrett, Paul Boudreau, Freeman Boynton, Jr., Scott Casagrande, Fred Clifford, Martin Desmery, Robert Fitzpatrick, Nancy Johnson & George Wadsworth.

Members Absent: Mary Steinke.

Also Present: Approximately eight members of the public.

Meeting called to order by the Chair, Robert Fitzpatrick, at 7:33 pm.

Bob Fitzpatrick made some introductory remarks about the charge of the Committee, the purpose of the meeting, and the Committee's draft report. After noting that the draft report is available on the Town's website, Bob distributed a copy (without exhibits) to all of the members of the public who attended the meeting.

Bob noted that the next and presumably final meeting of the Committee will be held on November 7, 2012 @ 7:30 pm at the Senior Center. The Committee will accept comments from the public until the next meeting, at which time we will undertake the process of finalizing the report and presenting it to the Board of Selectmen.

Bob also noted that the Planning Board discussed the draft report at a recent meeting. The Zoning Board of Appeals and the Design Review Board will conduct meetings soon to consider the draft report.

After reciting a detailed summary of the Committee's activities, as well as the particular findings and recommendations in the draft report, Bob invited members of the public to provide their comments to the Committee:

Sarah McCormick, a member of the Design Review Board, began by commending the Committee on the amount of work it performed on this project. She had comments on five specific areas (Special Permits, DRB, Grading, Piers & Garages).

She provided the Committee with her written notes, which are attached to these minutes.

Paul McCormack noted that the report recommends action on the part of "the Town;" e.g., Recommendation #2 (permitting guide) and #4 (ombudsman). He suggests that the report be a little bit more specific on exactly who should be implementing these recommendations.

Frank Mangione noted that the draft report does not address the "financial side;" i.e., the fees that the Town charges to developers. If we are going to look at expanding personnel in this area, has anyone considered whether the fees are proper? Should we charge more? Committee member Judi Barrett noted that the question of fees is beyond our charge. Frank thinks we should ask our professional consultant to look at the fee issue since we are recommending the hiring of staff for the ZBA, as well as a permitting ombudsman.

Committee member Paul Boudreau ended the meeting by publicly acknowledging and thanking our Chair, Bob Fitzpatrick, for the enormous amount of work that he put into this project, including the drafting of the Committee's report.

Meeting adjourned @ 8:25 p.m.

List of Documents and Other Exhibits Used at the Meeting: Draft report of the ZBRC.

NOTES FOR BY-LAW REVIEW COMMITTEE

- 1) **Special Permits:** You note that special permits are mentioned in more than one place. Since the DRB deals with special permit applications, we have discussed them more than once.

There appear to be two granting authorities: the Planning Board and the Board of Appeals, but even that is murky.

I think when a special permit is granted has to be defined; i.e., a special permit is granted to a residential applicant when the subject property is: And then state the conditions. (The present by-law states a number of conditions which would only apply to commercial properties.) How special permits apply to residential properties should be defined separately. See 906.2. I don't think the criteria have to be general; it is helpful if they are as specific as possible.

- 2) **The Design Review Board**

I agree with your comment that matters that trigger action by the DRB should be clarified. Our by-law states that we should see any project which requires a special permit. In our case it is usually the building inspector who refers a case to us. His definition of when a special permit is required is not any residential project on a non-conforming lot, but instead any project on a non-conforming lot where the non-conformity is increased.

This appears to be logical but there are many examples in Duxbury where a special permit has been issued for a much larger house than the original (house) on a non-conforming lot, in other words a total re-build. This is not to say that the larger house is necessarily bad, but that in some cases the newer, larger house is so massive it has a detrimental affect on the street scape, and the by-law specifically states that the ZBA should take this into account. They can't however take this into account if we have not been able to comment on it because a special permit was never issued.

While granting more special permits may be more time-consuming for the Boards involved, ultimately this affords much more protection for the town Isn't that what by-laws are all about?

- 3) **Grading:** There are cases now where building is taking place on King Caesar Road where massive homes are going up, both replacing moderate sized homes. These homes are very tall and in both cases tower over the other homes in The neighborhood. One can see that, while they may well be over Duxbury's 30' high limit now, when they are completed, each finished home will be on a grade that has been substantially raised with fill, so that the height of the finished home will be measured from a grade that has been altered. This defeats the purpose of the 30' ft. height limit. We need a by-law which specifically address the complexities of grading, how it will be accomplished and by how much, a by-law which has teeth.

- 4) Piers: You want to have the Scenic Overlay District portion of the pier section to be reviewed, clarifying the phrase "re-constructed as A new pier" with which I agree. I would add that there is also a conflict between the handrail requirements in 404.20, # 6 and 404.50, #2.

With regard to the statement that the "cost of the repair to the existing pier is greater than 50% of the cost of the new pier", I submit that this could be open to underhanded dealings unless there is a specific requirement that three written estimates of repairs be given.

- 5) Garages: As you know, there is little guidance given in the by-law for garages, but they do very definitely influence the look of a property, particularly if they are way out of proportion to the main house. ~~You can see an example of this in [redacted] and other properties.~~ There should definitely be some zoning created that would address the size and volume of garages.

Jared M. Connors
10/8/12