



# Town of Duxbury Massachusetts Planning Board

## Minutes 01/10/2018

The Planning Board met on Wednesday, January 10, 2018 at 7:00 PM at the Duxbury Town Hall, 878 Tremont Street, Mural Room.

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

Absent: Jennifer Turcotte.

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

Mr. Casagrande called the meeting to order at 7:01 PM.

### OPEN FORUM

Planning Board Meetings: Ms. Ladd Fiorini requested a future agenda topic on the length of Planning Board meetings, in light of the last meeting running until 11:00 PM.

### INFORMAL SITE PLAN REVIEW: DUXBURY SENIOR CENTER, 10 MAYFLOWER STREET (ADDITION TO EXISTING BUILDING / NO CHANGE IN NUMBER OF PARKING SPACES)

Present for the discussion was Ms. Joanne Moore, Director of the Council on Aging; and Ms. Pamela Campbell-Smith and Mr. Paul Brogna of the Senior Center Building Committee. Mr. Casagrande invited Mr. Brogna to present the plans.

Mr. Brogna noted that the plans distributed to the Planning Board prior to tonight's meeting are 95 percent complete. He distributed a half-size plan that he said was the 100 percent complete version. The purpose of the addition is to provide space for an early-stage Alzheimer's day program. The main entrance to the existing building will remain as the only public entrance to the building. Mr. Brogna stated that there are currently 101 parking spaces including 17 handicap spaces. The proposed addition would be on the south side of the existing building. The existing building is 13,000 square feet and the proposed addition is 3,500 square feet.

Mr. Brogna stated that the change in parking would be to add four additional spaces near the existing raised garden which will be relocated. No change is proposed to the driveway or curb cuts. Nine of the existing handicap spaces would be converted to regular parking spaces and the other eight handicap spaces would remain as is. No pavement changes would be required for this change. In addition they propose to widen the driveway with a minor change to the existing canopy at the entrance because it is 6 inches too low now, so the canopy may need to be replaced which would increase the amount of bituminous concrete.

Mr. Bear asked if there are times when the Senior Center has run out of parking spaces, and Ms. Moore responded that during those rare instances when more parking is needed they have used the grassy area near the Council on Aging sign, staying away from the septic areas. Mr. Glennon asked why they chose to add four parking spaces, and Mr. Brogna replied that they believed it would be a reasonable construction cost.

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Mr. Wadsworth asked if any change in lot coverage is proposed, and Mr. Brogna stated that the lot coverage will change and asked if the lot coverage calculations are required. Ms. Massard replied that they are needed. Mr. Casagrande noted that the plan shows that the lot coverage is nine percent. Mr. Wadsworth recalled that when the parking lot was expanded through an Administrative Site Plan Review with the Planning Board in 2010, the plants were never installed for the Low-Impact Design discharge area. He stated that it would be helpful to install the plantings in order to capture pollutants although it may require some tree removal. He suggested that low maintenance plants should be used.

Mr. Glennon asked if any interior reconfiguration will be needed, and Mr. Brogna stated that the south end of the building will be modernized and will tie into the new facility.

Mr. Casagrande asked if additional programming require additional parking. Mr. Brogna stated that although the building is at full capacity for use, parking is typically not an issue between 8:00 AM – 5:00 PM because most seniors do not drive there and some are transported there by the Council on Aging bus. Mr. Wadsworth asked if additional space might be required for additional staff, and Ms. Moore responded that it may be the case in the future but for now the goal is to change three part-time positions to full-time plus add one staff member who would work outside of the primary hours of use.

Mr. Casagrande invited public input and there was none.

Mr. Glennon asked if the proponents are amending their existing Administrative Site Plan Review decision, and Ms. Massard stated that they are not because only four additional parking spaces are proposed, unless the Planning Board believes that it should be required. Mr. Glennon stated that he is not looking to add more items to the Planning Board agenda but that it would be nice to add an addendum to the existing ASPR decision. Ms. Massard stated that it could be possible as long as the As-Built plan matches the proposal presented during this informal presentation tonight.

## **PUBLIC HEARINGS, PROPOSED ZONING AMENDMENTS FOR ANNUAL TOWN MEETING 2018**

Mr. Casagrande opened the public hearings at 7:22 PM.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Uitti provided a second, to waive the reading of the public hearing notice and correspondence lists for the two zoning articles on tonight's agenda, which are on file at the Planning Department.

**VOTE:** The motion carried unanimously, 6-0.

### **RECREATIONAL MARIJUANA (PLANNING BOARD):**

The correspondence list for this proposed zoning article for the record:

- Emails between A. Kreiger and V. Massard et al dated 12/28/17 re: Legislature Extends Deadline for Licensing Marijuana Establishments by 6 months
- Email from A. Murray to R. Read et al dated 09/26/17 re: Attached is certified vote RE: Ballot Q #4 – Marijuana from 11-08-17 & complete 11-08-16 Election Results Certified
- Draft warrant article
- Information sheet for ATM 2018 created by Planning Director
- Email from V. Massard to R. Read et al dated 11/21/17 re: Handout
- Email from V. Massard to R. Read et al dated 11/21/17 re: The Marijuana Packet for Town Meeting with attachments
- Memorandum from V. Massard to R. Read et al dated 12/18/17 re: Zoning Articles for Marijuana
- Email from V. Massard to R. Read et al dated 12/18/17 re: FACTS meeting – Marijuana on Warrant for 2018 ATM
- Draft warrant article stamped with Town Clerk on 12/19/17, published in the Duxbury Clipper on 12/20/17 and 12/27/17, and mailed to regional planning agencies and abutting towns' Planning Boards on 12/20/17
- Email from V. Massard to J. Blake et al dated 12/20/17 re: REVISED LANGUAGE with attachments
- Email from V. Massard to G. Wadsworth et al dated 12/20/17 re: Medical & Recreational Marijuana update
- Email from V. Massard to G. Wadsworth et al dated 12/22/17 re: Happy Holidays, Thanks and some random info.

Ms. Massard explained that while there are two articles relating to recreational marijuana, only one of them is a zoning article. The residents of Duxbury voted to say no to recreational marijuana at a recent state referendum, and the proposed zoning article reflects that vote and also input from the Duxbury FACTS group and the Police Department. She stated that the general consensus was to propose a ban on recreational marijuana in Duxbury, and the proposed language reflects that.

Ms. Massard stated that the zoning proposal is to ban the cultivation and sale of recreational marijuana in the town of Duxbury. She stated that although the state is not expected to issue regulations until April, Town Meeting is being asked to take prior action. She noted that a proposed general bylaw would be for a similar action so that it would not be allowed per both Zoning Bylaws and the town's General Bylaws.

Ms. Massard noted that the information sheet that she created provides information and links to the regulatory process through the state. She announced that the Duxbury FACTS group will host a public forum on January 23, 2018 at 11:00 AM at the Senior Center and on February 13, 2018 at the Duxbury Free Library on this topic.

Mr. Bear asked if the proposed language was provided by the state, and Ms. Massard replied that the Town of Duxbury's town counsel drafted the language and she wrote the intent. Mr. Bear asked if the proposed bylaw would apply to medical marijuana, and Ms. Massard replied, "No." She stated that medical marijuana is under a different state statute, and the proposed Zoning and General Bylaws here relate to recreational marijuana. She noted that there will be another public hearing for a housekeeping article to remove the former temporary ban on medical marijuana facilities that expired in 2014. Mr. Casagrande asked if there is any way for the zoning bylaw to apply to medical marijuana, and Ms. Massard explained that medical marijuana is under a different statute. She noted that medical marijuana facilities may not be viable or suitable in Duxbury due to the many requirements for dispensing it. She added that medical marijuana may be available in pharmacies in the future.

Ms. Massard reported that the major focus of the FACTS group is recreational marijuana and the group has advised the Town Manager and administration that they do not want to create any confusion by proposing a medical marijuana bylaw. She asked if the Planning Board could rally around that opinion. Mr. Uitti stated that the proposed article language appears to be focused narrowly on recreational marijuana so there should be no confusion. Mr. Glennon agreed that the proposed language is well written and sufficiently short. Mr. Wadsworth agreed that it is a good idea to focus on recreational marijuana.

Mr. Glennon suggested removing a phrase in the proposed section on the intent of the bylaw that referenced the effect of water and nutrient-intensive marijuana crops.

Mr. Casagrande invited public comment. Mr. Neal Doherty of 8 Pheasant Hill Lane introduced himself as a member of the FACTS group. He stated that the FACTS group supports the proposed articles. He stated that the FACTS group is concerned with youths experimenting with recreational marijuana, and this bylaw may help to keep it away from youth. He invited the Planning Board and public to the forum. He provided facts on the negative health effects of recreational marijuana use. Mr. Bear asked if language should be added to the intent regarding protecting the youth, and Ms. Massard responded that the zoning bylaw's intent should be oriented toward land use. Mr. Glennon agreed that protecting the youth would be more of a Board of Health issue. Mr. Casagrande suggested that the general bylaw could be broader in its language and intent.

Ms. Lorrie Hall of 175 Abrams Hill Road stated that she is in favor of the proposed prohibition of recreational marijuana. She read a letter that she had written in support of the article for health reasons, especially concerning youth.

**MOTION:** Mr. Glennon made a motion, and Mr. Uitti provided a second, to close the public hearing for a proposed article for Annual Town Meeting 2018 for new Zoning Bylaw Section 619, "Facilities for Marijuana Not Medically Prescribed."

**VOTE:** The motion carried unanimously, 6-0.

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DUXBURY, MASS.  
TOWN CLERK

Therefore the public hearing on the proposed Recreational Marijuana zoning bylaw closed at 7:48 PM.

**MOTION:** Mr. Glennon made a motion, and Mr. Uitti provided a second, to recommend approval of a proposed article for Annual Town Meeting 2018 for new Zoning Bylaw Section 619, "Facilities for Marijuana Not Medically Prescribed" as amended at tonight's meeting.

**VOTE:** The motion carried unanimously, 6-0.

**GROUND-MOUNTED SOLAR FACILITIES (PLANNING BOARD):**

The correspondence list for this proposed zoning article for the record:

- Email from V. Massard to J. Blake et al dated 12/18/17 re: FACTS meeting – Marijuana on Warrant for 2018 ATM with attachment
- Email from V. Massard to D. Grant et al dated 12/20/17 re: Solar Photovoltaic Electric Installations DRAFT with attachment
- Email from V. Massard to B. Saint Andre et al dated 12/20/17 re: Solar Photovoltaic Electric Installations DRAFT-20-17 with attachment
- Draft warrant article submitted to Town Clerk on 12/19/17, published in the Duxbury Clipper on 12/20/17 and 12/27/17, and mailed to regional planning agencies and abutting towns' Planning Boards on 12/20/17
- Email from V. Massard to G. Wadsworth et al dated 12/22/17 re: Happy Holidays, Thanks and some random info with attachment
- Emails between R.W. Galvin and V. Massard dated 01/08/18 re: 2 Matters – 1 Old and 1 New
- Emails between C. Ladd Fiorini and D. Grant dated 09/09/18 re: Zoning bylaws
- Emails between D. Grant and R. Bhungara dated 01/09/18 re: Duxbury proposed solar zoning bylaw for Annual Town Meeting 2018

Ms. Massard explained this proposed new Zoning Bylaw 621, "Solar Photovoltaic Facilities" (SPVF) noting that interest in the proposed bylaw was sparked by the state's incentives for solar energy. She stated that the Town of Duxbury has looked into what works in other communities. The consensus she has found in listening to the Planning Board is that ground mounted solar is good in theory in commercial areas and rooftop solar is not bad as long as it is not unsightly. She noted that last year's ground-mounted solar district bylaw for Green Community status is completely separate from this proposed bylaw. She stated that Town Counsel has reviewed the proposed language and made comments on the administrative procedures only.

Ms. Massard stated that the Planning Board has held two workshops this past year to find out if ground-mounted solar facilities make sense for Duxbury. There was at least one controversial project for a ground-mounted solar facility on Sawmill Lane. She stated that Mr. Casagrande had weighed creating a special permit for ground-mounted solar facilities versus not allowing ground-mounted solar in residential neighborhoods. She reported that Town Counsel has advised that it will be up to the Planning Board to choose whether to allow ground-mounted solar in residential areas, and that as presented she has included it as a special permit for accessory use only. The Attorney General is likely to accept the bylaw with or without this section, per Town Counsel.

Ms. Massard explained that the proposed bylaw would allow rooftop solar structures no higher than the roofline. If structures are proposed higher than the roofline it would require a special permit with a demonstrated public need and there is a further cap on this height.

Ms. Massard stated that the issue of commercial versus residential solar uses was also considered. The proposed language would allow solar facilities as an accessory use up to 150 percent of the power generated for household use as a maximum. The fencing required for ground-mounted solar would be similar to the fencing required for pools on residential properties, with no access allowed except through a gate. Ms. Massard stated that according to Planning Board discussions ground-mounted solar seems to make sense in Neighborhood Business (NB) districts as long as we do not have to see them. She reported that feedback from the Alternative Energy Committee and Design Review Board was requested and the AEC provided feedback that was incorporated into the proposed bylaw.

Ms. Massard stated that special permit requests for ground-mounted solar arrays in the Residential Compatibility District, as drafted, would have the Planning Board as the Special Permit Granting Authority. For residential solar arrays the front plane of the dwelling becomes the front yard setback. A certain lot size is required also, so small lots would not be able to have a ground-mounted solar array. Mr. Glennon noted the minimum lot size is 2.5 acres. Rooftop solar arrays are allowed but they cannot exceed the roofline.

Mr. Casagrande stated that the proposed language looks good, commenting that he is against ground-mounted solar structures in residential areas anywhere in the town. Mr. Glennon stated that the challenge is that the state zoning statute is designed so that solar arrays cannot be prohibited, but they can be regulated. Mr. Glennon agreed that he would rather not see them in Duxbury but at least the Planning Board would have a say in future installation proposals. Ms. Ladd Fiorini stated that with 2.5 acre zoning and solar arrays in the back of a lot, there should be no negative impact to the town. Mr. Casagrande stated that there may be an impact on abutting neighbors, and ground-mounted solar arrays are less expensive to install than roof-mounted ones.

Ms. Massard noted that technology is advancing rapidly and solar arrays may be getting smaller in size in the future. In light of that, the Planning Board can always review its bylaw in the future. She noted that residents will have a voice in future regulations and the process is not finished yet. Mr. Casagrande noted that a two-thirds vote is required to add this new bylaw. Ms. Ladd Fiorini stated that restricting ground-mounted solar arrays in residential areas in Duxbury may be short-sighted. She stated that her perspective is that sometimes the Planning Board needs to be in the forefront, and the proposed parameters here seem reasonable.

Mr. Bear asked if there have been any inquiries about ground-mounted solar canopies as referenced in the proposed bylaw, noting that he has seen very few anywhere but mostly in medical parking lots. Ms. Massard stated that they are also used in shopping centers, and they are popular parking places because vehicles are protected when they are parked underneath the canopy. She noted that in the proposed bylaw they can be accessory structures that do not provide a shadow on an abutting property.

Mr. Uitti asked how many 2.5 acre sites there are in Duxbury, and Ms. Massard replied that she would have to map it. Mr. Wadsworth asked how lot coverage is determined for a ground-mounted solar array, and Ms. Massard replied that it would be counted toward lot coverage because they are considered impervious.

Mr. Glennon asked about a proposed regulation in the draft bylaw as 621.6.a that all SPVFs shall require a sign that identifies the owner/operator and provide a 24-hour emergency contact phone number. Mr. Glennon asked if this requirement would apply to roof mounted solar arrays also, and Ms. Massard responded that it would, noting that often solar panels are leased by an outside organization that is not the property owner, and for safety reasons we may need to contact them.

Mr. Casagrande invited public comment and there was none.

Ms. Massard summarized that she is hearing that the Planning Board is leaning away from allowing canopy SPVF and accessory ground-mounted SPVF in the Residential Compatibility District.

Planning Board members then addressed specific language in the draft bylaw:

**MOTION:** Mr. Uitti made a motion, and Mr. Bear provided a second, to add language to the proposed new Zoning Bylaw Section 621 (Solar Photovoltaic Facilities) as 621.5.g as follows: "Ground-mounted canopy SPVF are not permitted in the Residential Compatibility and Planned Development Districts"; and to amend Section 621.6.h regarding the special permit criteria for the Residential Compatibility and Planned Development Districts to reflect this change.

**VOTE:** The motion carried unanimously, 6-0.

Ms. Massard then suggested amendments that might reflect tonight's discussion.

**MOTION:** Mr. Uitti made a motion, and Mr. Glennon provided a second, to amend the proposed new Zoning Bylaw Section 621 (Solar Photovoltaic Facilities) Section 621.5.f to read as follows: "Ground-mounted SPVF are not permitted in the Residential Compatibility and Planned Development Districts"; and to strike Sections 621.5.e and 621.6.h to reflect this change.

**DISCUSSION:** Mr. Uitti noted that the purpose of striking those sections would be to not allow ground-mounted SPVF in the Residential Compatibility and Planned Development Districts.

**VOTE:** The motion carried 4-2, with Ms. Ladd Fiorini and Mr. Wadsworth voting against.

Ms. Ladd Fiorini asked about Section 621.6.c that all ground-mounted SPVF must be fenced in a manner consistent with pool fencing of the Building Code to prevent injury. Ms. Massard responded that there is an international code for pool fencing and language will be inserted to reference the code.

**MOTION:** Mr. Glennon made a motion, and Mr. Uitti provided a second, to close the public hearing for a proposed new Zoning Bylaw Section 621 (Solar Photovoltaic Facilities).

**DISCUSSION:** Mr. Wadsworth stated that he would feel more comfortable continuing the public hearing because significant changes are proposed, and he would like an opportunity for the Planning Board and the public to review those changes and provide comment. Mr. Glennon stated that the changes have been made at a public hearing tonight. Mr. Casagrande stated that he does not want to prolong the public hearing process. Ms. Massard assured the Planning Board members that the language will go into the Town Meeting warrant as discussed at tonight's hearing.

**VOTE:** The motion carried 4-2, with Ms. Ladd Fiorini and Mr. Wadsworth voting against.

Therefore the public hearing for this article closed at 8:36 PM.

**MOTION:** Mr. Glennon made a motion, and Mr. Uitti provided a second, to recommend approval to Annual Town Meeting 2018 for a proposed new Zoning Bylaw Section 621 (Solar Photovoltaic Facilities).

**VOTE:** The motion carried unanimously, 6-0.

## CONTINUED PUBLIC HEARING, DEFINITIVE SUBDIVISION: 0 & 232 SURPLUS STREET (FOUR NEW LOTS, 1 EXISTING LOT) / JRM INVESTMENT REALTY 2010 LLC

Mr. Casagrande recused himself from participating in this public hearing and handed the gavel to Mr. Uitti to run the public hearing. Mr. Uitti opened the continued public hearing at 8:37 PM. Present to represent the application were Mr. Rick Grady of Grady Consulting, LLC; and Mr. Daniel Warsowick, Mr. John Cully and Ms. Michelle Cully of JRM Investment Realty 2010 LLC. Also present was the town's consulting engineer, Mr. Peter Palmieri of Merrill Engineers.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Glennon provided a second, to waive the reading of the correspondence list which is on file at the Planning Office.

**VOTE:** The motion carried unanimously, 5-0.

The correspondence list for the record:

- Emails between D. Grant and B. Glennon et al dated 12/14/17 re: Follow up from last night's PB meeting
- Email from R. Grady to V. Massard et al dated 12/18/17 re: 232 Surplus Street
- Emails between R. Grady of Grady Consulting and R. Trahan of Environmental Partners et al dated 12/18/17 re: Surplus Street Duxbury

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- Email from C. Ladd Fiorini to D. Grant et al dated 12/19/17 re: Follow up from last night's PB meeting
- Email from D. Uitti to D. Grant et al dated 12/19/17 re: Follow up from last night's PB meeting
- Email from C. Ladd Fiorini to D. Grant et al dated 12/20/17 re: Follow up from last night's PB meeting
- Email from J. Bear to D. Grant dated 12/20/17 re: Follow up from last night's PB meeting
- Letter from R. Trahan of Environmental Partners to P. Mackin, Water Superintendent, et al, dated 12/20/17 re: Proposed Subdivision - #232 Surplus Street
- Email from D. Uitti to D. Grant et al dated 12/22/17 re: Follow up from last night's PB meeting
- Email from J. Bear to D. Grant et al dated 12/23/17 re: Nash St walk through
- Cover letter and revised plans dated 12/26/17 and supplemental material submitted via email by R. Grady to PB on 12/27/17
- Letter from R. Trahan to P. Mackin dated 12/29/17 re: Response to Comments - #232 Surplus Street (sent via email from R. Trahan to R. Grady et al)
- Email with updated Nitrogen Loading Analysis dated 12/29/17 re: GC 232 Surplus nutrient loading updated 12/29/17
- Letter from P. Palmieri to V. Massard dated 01/03/18 submitted via email re: Peer Review – Definitive Subdivision Plan, 232 Surplus Street, Duxbury.

Mr. Uitti invited Mr. Grady to present the latest plan revisions. Mr. Grady stated that he had staked the roadway and most Planning Board members were able to walk the site. He stated that minor plan revisions were made to reflect comments in a letter from the town's consulting engineer, Mr. Peter Palmieri of Merrill Engineers, dated December 5, 2017 and review comments in a letter dated December 20, 2017 from the Water Department's consultant, Mr. Ryan Trahan of Environmental Partners.

Mr. Uitti noted that updated comments on the revised plans had been submitted by Mr. Palmieri on January 3, 2018 and Mr. Trahan on December 29, 2017. Mr. Uitti confirmed with Mr. Palmieri that he had no further comments or concerns with the revised plans.

Mr. Wadsworth asked if a revised landscaping plan had been submitted that listed proposed plantings, and Mr. Grady replied, "Yes." Mr. Wadsworth stated that the Planning Board would like to see low non-deciduous plants along Surplus Street. Mr. Grady stated that they plan to plant white pines in groups of three along with a few pin oaks, and red maples around the rain garden. Ms. Massard noted that pin oaks are typically used as screening because they are smaller trees that keep their leaves longer and the branches dip downward. Mr. Wadsworth stated that he was looking for bushes like rhododendrons or inkberry. Ms. Massard stated that the final plans could include year-round perennials, and Mr. Grady agreed.

Ms. Ladd Fiorini stated that in their site walk the Planning Board had pointed out three oaks to be flagged, and commented that she did not see where the trees were flagged on the revised plans. The Planning Board had been given half-sized plans as required but the print was small. Mr. Grady showed Planning Board members where on the large plans the trees were located, noting that they may need to pull the siting of the house forward in order to save one of the trees.

Mr. Wadsworth asked about a substantial oak on the edge of Parcel B, and Mr. Grady stated that it had not been brought to his attention but he will look at it. Mr. Uitti noted that the Planning Board is concerned with the preservation of as many mature trees as possible. He stated that sometimes best intentions are dashed after construction starts. He stated that he would like to see a detail on the plan to show an eight-foot stockade fence around flagged trees to protect them, so that construction contractors can see the protected trees on the plan. Mr. Uitti added that if future property owners want to cut a mature tree that would be their own decision.

Ms. Massard offered a possible condition to be a detail to be added to the plan to protect the three mature trees identified by the Planning Board members, and the lot itself could be subject to Site Plan Review by the Planning Board in order to preserve the trees on that lot.

Ms. Massard summarized the possible waivers and conditions so far based on discussions during the public hearings:

- Waiver of sidewalks requirements: Ms. Massard asked if the Planning Board members would consider adding street trees along Surplus Street as a condition of the waiver.
- Allowing a hammerhead turnaround rather than the required cul de sac: Ms. Massard noted that according to Subdivision Rules & Regulations Section 7.3.10.5, modified turnarounds built within the 150-foot cul de sac layout may be used such as a hammerhead. Ms. Massard noted that the Fire Chief did not like the U-shaped turnaround shown on the conceptual plan, but a better designed hammerhead could be shown on a revised plan and would provide the benefit of preserving trees and vegetation. Mr. Bear agreed that it would require far less site coverage and less drainage.
- Substitute evergreen plantings for the deciduous plantings listed on the landscape plan for Nash Road.
- Detail to be added to the plan according to requirements of Subdivision Rules & Regulations Section 12.0 (Preservation of Natural Vegetation) for the three trees identified to be saved in the Planning Board site visit, and to consider a note on the plan or to have a future homebuilder apply for Site Plan Review in order to encourage a future owner to preserve those trees.

Mr. Uitti asked Mr. Grady if the applicants would wish to pursue the waivers, and Mr. Grady responded that they would reduce the tree clearing and reduce the impervious site coverage by 25 percent.

Mr. Uitti asked the Planning Board members if they would prefer to provide a waiver for the sidewalk requirement, and Mr. Bear and Ms. Ladd Fiorini replied in the affirmative. Mr. Wadsworth stated that if sidewalks are required anywhere in town, it should be here. He stated that in this area there are small lots so it is densely populated, and it is possible that sidewalks there could connect to future town sidewalks. Mr. Bear disagreed, noting that this area is not near the center of town and there are no sidewalks on either Washington or Depot Streets (the streets that intersect with Surplus Street). He cautioned that one applicant cannot be treated differently than others. Mr. Wadsworth agreed that this is a point well taken.

Ms. Ladd Fiorini stated that she does not anticipate any future Town Meeting action to construct sidewalks in town. She stated that there are many benefits to waiving the sidewalk requirement. Mr. Glennon stated that he is fine with both proposed waivers. Mr. Uitti agreed, noting that they have heard from the public that maintaining the rural character of this area is important, and it is also a public priority to preserve trees.

Mr. Uitti asked if the Fire Chief had approved the latest hammerhead design. Ms. Massard responded that maintaining the rural character is important here, and the applicant would agree to a waiver of the required cul de sac because existing contours could be preserved and it would reduce the amount of impervious surface, so it is in the best interest of the Town of Duxbury to waive the cul de sac requirement. Mr. Grady confirmed that the applicant would agree to this waiver. There is safe turnaround to be demonstrated on the plan.

Mr. Uitti suggested that the waiver could require a hammerhead design that the Fire Chief approves. Mr. Warsowick noted that at the last Planning Board meeting, someone from the Planning Board was supposed to talk with the Fire Chief to resolve the hammerhead question, and that was why the public hearing was continued. Mr. Uitti stated that it did not happen. Mr. Bear stated that the Planning Board can overrule the Fire Chief. Mr. Uitti noted that it is important for the Fire Chief to weigh in on the matter. Ms. Massard stated that a condition will require that a hammerhead design template be submitted that demonstrates that safety vehicles would be able to turn around.

Mr. Glennon noted that with the Planning Board waiving some of its own requirements, they should take a look at removing some requirements. Ms. Massard noted that the Fire Chief would be invited to review the proposed hammerhead template. Mr. Bear stated that it is the Planning Board's decision, not the Fire Chief's. Ms. Massard noted that the hammerhead size design is a function of maneuverability, not subdivision size. Mr. Glennon stated that it is important for the Fire Chief to be consulted. Mr. Glennon noted that while the Planning Board is not looking for the Fire Chief's "approval," the Planning Board needs to make sure that any public safety apparatus can turn around.



Mr. Bear asked if the applicants would consider building the drainage basin less deep, and Mr. Grady replied that it would be a possibility.

Mr. Uitti invited public comment. Mr. Chris Sherman introduced himself as a member of the Board of Trustees of the Duxbury Rural & Historical Society (DRHS), noting that he was not speaking on their behalf but rather on their general interest. He stated that the DRHS is a private entity that owns a number of preservation restrictions in order to monitor them. He offered to sit down with the applicants in order to tailor an administrative restriction to preserve the historic structures on this site. He stated that while he does not want to be overly restrictive, he believes there is a way to preserve the building while expanding it at the same time. He cautioned that once someone buys the property they can do what they want. Mr. Uitti urged the applicants to speak with Mr. Sherman, and Mr. Cully stated that they will have that conversation, and they have already spoken with Mr. Bill McArdle of the Town of Duxbury Historical Commission.

**MOTION:** Mr. Glennon made a motion, and Ms. Ladd Fiorini provided a second, to close the public hearing for the Definitive Subdivision at 0 & 232 Surplus Street (Four New Lots, 1 Existing Lot) / JRM Investment Realty 2010 LLC.

**VOTE:** The motion carried unanimously, 5-0.

Therefore, the public hearing closed at 9:14 PM. Planning Board members then addressed waivers for the Definitive Subdivision decision.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Bear provided a second, to waive the requirement for sidewalks for the Definitive Subdivision at 0 & 232 Surplus Street (Four New Lots, 1 Existing Lot) / JRM Investment Realty 2010 LLC, as it will provide the public benefits of less cutting and grading, the preservation of trees, and the reduction of impervious surfaces.

**VOTE:** The motion carried 4-1, with Mr. Wadsworth voting against.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Bear provided a second, to waive the requirement for a cul de sac in favor of a hammerhead turnaround to be reviewed by the Fire Chief to make sure that the design is adequate for public safety vehicles to turn around for the Definitive Subdivision at 0 & 232 Surplus Street (Four New Lots, 1 Existing Lot) / JRM Investment Realty 2010 LLC, as it will provide the public benefits of less cutting and grading, the preservation of trees, and the reduction of impervious surfaces.

**DISCUSSION:** Mr. Wadsworth stated that he would prefer to leave the decision alone until the Fire Chief can provide input

**VOTE:** The motion carried 4-1, with Mr. Wadsworth voting against.

Ms. Massard reviewed conditions in a draft decision that was included in the Planning Board packets. Ms. Ladd Fiorini asked how the large oak tree in the front of the property could be preserved when it is on a parcel, not a lot. Mr. Grady stated that the applicants would be glad to look at saving the oak and reducing the drainage basin. Mr. Uitti suggested that a phrase could be added to the waiver for Local Street Design Standards that the applicants will use their best efforts to reduce the drainage basin on Parcel B.

Ms. Massard stated that she would add conditions regarding the substitute plantings, the detail on the oak trees, and the encouragement to preserve existing mature trees to the extent possible as a note on the plan.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Bear provided a second, to APPROVE the Definitive Subdivision at 0 & 232 Surplus Street (Four New Lots, 1 Existing Lot) / JRM Investment Realty 2010 LLC, with waivers and conditions as drafted in a Certificate of Notification and amended at tonight's meeting.

**DISCUSSION:** Mr. Wadsworth asked if the applicants would need to come before the Planning Board again, and Mr. Uitti responded that they will come before the Planning Board for endorsement of the final subdivision plans.

**VOTE:** The motion carried 4-1, with Mr. Wadsworth voting against.

Mr. Wadsworth stated that he did not wish to leave the Fire Chief issue unresolved before voting on the decision.

### **ZBA REFERRAL: 106A KING PHILLIPS PATH / HABEL**

Planning Board members reviewed the special permit materials and a staff memorandum prepared by Ms. Massard dated December 26, 2017 for this request by the property owner to alter an existing structure on a lot containing two dwellings. Ms. Massard stated that the two houses are pre-existing and the applicant proposes to make simple changes on only one of them. She noted that a special permit is required only because it is pre-existing nonconforming due to the multiple dwellings. Mr. Bear noted that there is nothing to stop the property owners from tearing down the nonconforming dwelling and rebuilding it. Mr. Casagrande noted that they are not adding a third residence.

Ms. Massard stated that the applicants propose to reconstruct the roof and do other interior renovations to change the structure from four bedrooms to three bedrooms with a net increase of 420 square feet. A new ground-floor deck is proposed. A small shed will be moved and a new barn / garage and parking have been constructed where the existing shed is currently located.

Mr. Glennon asked if the dwelling to be remodeled is currently inhabited, and Ms. Massard replied that both dwellings have been occupied for many years. Mr. Bear asked if there is a single ownership for both buildings, and Ms. Massard replied that there is no nonconformity in ownership.

Mr. Wadsworth suggested leaving the decision to the Zoning Board of Appeals.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Uitti provided a second, to recommend approval to the Zoning Board of Appeals regarding Special Permit #2017-14, 106A King Phillips Path / Habel, a proposal to alter an existing structure on a lot containing two dwellings.

**DISCUSSION:** Mr. Glennon stated that he would have preferred to defer judgment to the Zoning Board of Appeals as there are no planning issues. Mr. Bear noted that it is not usual for the Planning Director to write a staff report for a ZBA referral. Ms. Massard responded that she does it as time allows and generally cannot do it because there is not adequate staffing.

**VOTE:** The motion carried unanimously, 6-0.

### **PLANNING DIRECTOR REPORT**

Green Communities: Mr. Glennon commended staff for its role in helping the Town of Duxbury to obtain status as a Green Community. He specifically thanked Ms. Massard for her tremendous efforts and noted that with this status funding is now available for energy-saving projects. Ms. Massard gave credit to her cohorts in Town Hall and the School Department.

Comprehensive Plan Update: Ms. Massard reported on her weekly "virtual meeting" with MAPC earlier today where three drafts were reviewed on the following topics: Open Space, Historic & Cultural Resources, and Housing. Feedback from the Envision Duxbury survey and forum were considered, as well as feedback from the Master Plan Ambassadors. The MAPC is also looking for feedback on a draft vision statement for the town.

Mr. Glennon noted that at the Envision Duxbury forum, the public was asked to place dots on important areas of interest and asked if those findings correlated with the results published in the draft statements and vision statement. Ms. Massard responded that the feedback was very helpful and the staff at MAPC, even with the turnover they have experienced, has been excellent.

Ms. Massard reported that a February 28 MAPC presentation at a Planning Board meeting has been postponed so that they can focus on working on the draft sections of the Comprehensive Plan related to these topics.

Mr. Wadsworth stated that the word he heard most frequently from the public at the Envision Duxbury forum was "sidewalk." Ms. Massard responded that she has been talking with people at the Senior Center about sidewalks and bike paths, and she believes that there is a need for improved walkability because the Highway Safety Committee and public are afraid to walk down the side of the road without a walking path. She noted that part of the Comprehensive Plan will focus on walkability and especially on improving walkability of trails instead of streets and sidewalks where the old road widths here are in limited layouts available for sidewalks. Mr. Glennon stated that when he hears the word "sidewalk" he thinks of "liability."

Mr. Glennon asked when comments are due on the statements, and Ms. Massard replied that they are due next Friday. She added that ambassadors are also asked for input on what they would like to see from the MAPC for a meeting they may attend on March 21, 2018.

Ms. Massard stated that at Town Meeting in March, residents will be asked for comments on the statements also. A letter from the Planning Board to stakeholders will go out in early February asking for feedback. At Town Meeting, MAPC will make a presentation as part of a request for an additional \$75,000 to complete the next phase of the Comprehensive Plan update process. Mr. Glennon recommended that the MAPC consider the following approach for Town Meeting: 1) Demonstrate what has been done so far and 2) Justify their request for additional funding.

Town Meeting Articles: Ms. Massard reviewed a list of Planning Board related articles for Town Meeting. She noted that no language has been submitted to date from the Historical Commission on its proposed amendments to the Demolition Delay Zoning Bylaw. She noted that the Town Meeting warrant is expected to close on January 22.

Mr. Casagrande asked about the current thinking on the proposed Island Creek Oysters (ICO) rezoning, and Ms. Massard stated that her suggestion is to create a Memorandum of Understanding that ICO would entertain the concept of treating the two structures on Washington Street as a Local Historic District until they are accepted at a future Town Meeting as a Local Historic District. The structures would stay the same on the exterior. She reported that she has not heard back from Town Counsel on its opinion of her recommendation. Mr. Bear asked if ICO is operating a business on the site at this time, and Ms. Massard replied that she was not aware of any business activity physically located there. She added that any activity on the site would be reviewed by the Building Department, and that she has just returned from vacation today.

## OTHER BUSINESS

Engineering Invoices: Ms. Massard recommended that the Planning Board hold off on paying Merrill Engineers invoice #5122 dated 12/06/17 in the amount of \$2,465.00 re: 232 Surplus Street so that she could contact the engineer regarding overtime charges reflected on this invoice.

**MOTION:** Mr. Glennon made a motion, and Mr. Uitti provided a second, to pay the following Amory Engineers invoices dated 12/04/17:

- Invoice #14801A in the amount of \$759.00 for services related to DYC Pool
- Invoice #14801B in the amount of \$69.00 for services related to 295 St. George Street
- Invoice #14801C in the amount of \$143.00 for services related to Millbrook Station
- Invoice #14801D in the amount of \$552.00 for services related to 907 Tremont Street.

**VOTE:** The motion carried unanimously, 6-0.

TOWN CLERK  
FEB 21 PM 1:10  
DUXBURY, MASS.

Harrassment Awareness Training: Ms. Massard reminded Planning Board members to sign up for this required training being facilitated by the Human Resources Department.

## ADJOURNMENT

The Planning Board meeting adjourned at 9:51 PM. The next Planning Board meeting will take place on Wednesday, January 24, 2018 at 7:00 PM at Duxbury Town Hall, Mural Room, 878 Tremont Street.

## MATERIALS REVIEWED

- PB agenda for 01/10/18
- Memorandum from COA Building Committee to V. Massard and PB dated 01/28/18 re: COA Building Addition-Site Plan Review
- Plans entitled, "Town of Duxbury, Duxbury Senior Center Addition," dated 11/09/17 prepared by Staffian Bradley Architects, Boston, MA, submitted to the Planning Office on 12/26/17
- Public hearing notice for zoning articles public hearings for 01/10/18
- Proposed language for new ZBL Section 619: Facilities for Marijuana Not Medically Prescribed
- Email from V. Massard to PB et al dated 12/20/17 re: Medical & Recreational Marijuana update
- Cover letter from R. Grady of Grady Consulting LLC and revised plans dated 12/26/17 for Definitive Subdivision Plan – 232 Surplus Street
- Letter from R. Trahan of Environmental Partners to P. Mackin dated 12/20/17 re: Proposed Subdivision - #232 Surplus Street
- Letter from R. Trahan of Environmental Partners to P. Mackin dated 12/29/17 re: Response to Comments - #232 Surplus Street
- Email from R. Grady to D. Grant et al dated 12/29/17 re: Surplus Street Duxbury
- Email from J. Bear to D. Grant dated 12/23/17 re: Nash St walk through
- Draft Certificate of Notification for Nash Road Definitive Subdivision (0 & 232 Surplus Street)
- Memorandum from V. Massard to S. Casagrande & ZBA dated 12/26/17 re: ZBA Referral Case 2017-14/106A King Phillips Path/Habel
- ZBA special permit materials for 106A King Phillips Path / Habel
- Memorandum from A. Ball to PB et al dated 12/12/17 re: ZBA Case #2017-14
- GIS map for 106A King Phillips Path
- Assessors property cards for 106 King Phillips Path
- Amory Engineers invoice #14801A dated 12/04/17 re: DYC Pool (\$759.00)
- Amory Engineers invoice #14801B dated 12/04/17 re: 295 St. George Street (\$69.00)
- Amory Engineers invoice #14801C dated 12/04/17 re: Millbrook Station (\$143.00)
- Amory Engineers invoice #14801D dated 12/04/17 re: 907 Tremont Street (\$552.00)
- Merrill Engineers invoice #5122 dated 12/06/17 re: 232 Surplus Street (\$2,465.00)
- PB Meeting Schedule for 2018
- Construction Cost Estimates for December 2017

### Distributed at Meeting

- One set of updated plans for Senior Center submitted by P. Brogna
- Letter from P. Palmieri of Merrill Engineers dated 01/03/18 re: Peer Review – Definitive Subdivision Plan, 232 Surplus Street, Duxbury
- Letter from L. Hall dated 1/10/18 re: In favor of prohibiting marijuana establishments in all zoning districts
- Agenda Planner dated 01/10/18 from V. Massard

TOWN CLERK  
2018 FEB 21 PM 1:11  
DUXBURY, MASS.