



Town of Duxbury Massachusetts Planning Board

TOWN CLERK
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DUXBURY, MASS.

Minutes 11/14/18

The Planning Board met on Wednesday, November 14, 2018 at 7:00 PM at the Duxbury Town Hall, 878 Tremont Street, Mural Room, lower level.

Present: David Uitti, Vice-Chairman; Brian Glennon; John Bear; and George Wadsworth.

Absent: Scott Casagrande, Chairman; Cynthia Ladd Fiorini, Clerk; and Jennifer Turcotte.

Staff: Valerie Massard, Planning Director; and Ashley MacMillan, Administrative Assistant.

Mr. Uitti called the meeting to order at 7:00 PM.

OPEN FORUM / COMMITTEE LIASON REPORTS

Mr. Wadsworth mentioned that he considered the Metropolitan Area Planning Council's (MAPC) observations and recommendations on the storm water vulnerabilities facing the town, such as the loss of eel grass, and feels the Planning Board should take an active role in mitigating these in the future.

Mr. Wadsworth pointed out that there is a fear in town of potential contaminants in the drinking water from vinyl-lined pipes. Mr. Wadsworth wanted to inform the town that to his knowledge, the pipes have never tested positive for the alleged contaminants. Mr. Bear encouraged the board members to refrain from discussing this topic as it is not a Planning Board issue.

A.) APPROVAL NOT REQUIRED: 124 Evergreen Street

Mr. Brad McKenzie, of McKenzie Engineering Group, Inc., explained that the applicant's intent is to create three (3) new buildable lots. One (1) lot will include the existing single-family dwelling. All the new buildable lots created will have adequate frontage and proper lot size to conform to the regulations. Mr. McKenzie said all portions of the property are located in the Residential-Compatibility District. The wetlands have been delineated and do not count towards buildable area.

Ms. Massard said she sees no issues with the plan, and recommends endorsement.

Mr. Glennon pointed out that the lots have more than enough frontage to be conforming, and while it appears some encroachments are being made, that fact is not up to the Planning Board to

decide. Mr. McKenzie responded that the accessory structures and any needed cross-easements will be handled at a later date through the deeds after the property owner makes further decisions on the land.

Mr. Wadsworth asked where the septic system for Lot 2 would be located, and Mr. McKenzie answered that it will be determined by the location of a future dwelling.

Motion: Mr. Glennon made a motion to endorse the Approval Not Required plan for 124 Evergreen Street, titled "Plan of Land", dated October 29, 2018. Mr. Wadsworth provided a second.

Vote: 4-0, unanimous.

B.) APPROVAL NOT REQUIRED: 1 and 7 Modoc Street

Mr. Freeman Boynton Jr., of Duxbury Construction LLC, owns these two parcels with his son. Mr. Boynton wants to adjust the lot line between the two parcels to give 7 Modoc Street more area and meet the lot size requirements for the Aquifer Protection Overlay District. After the lot line adjustment, Mr. Boynton explained that both lots will still conform to the regulations, with appropriate frontage and lot size.

Motion: Mr. Glennon made a motion to endorse the Approval Not Required plan for 1 and 7 Modoc Street, titled "Plan of an ANR Division of Land #1 and #7 Modoc Street, Duxbury, MA", and dated September 13, 2018. Mr. Bear provided a second.

Vote: 4-0, unanimous.

C.) 7:15 PM - ADMINISTRATIVE SITE PLAN REVIEW: 397 Washington Street

Ms. Massard said there is a slight revision to the plan that was submitted at the meeting, a change which addressed Amory Engineer's recommendations to include a lighting and landscaping plan, as well as some hydrological calculations, which have addressed the concerns of Amory.

Mr. Jonathan Mark, applicant and the owner of Waterfront Realty Group, Inc. mentioned that this is the property that was recently rezoned at the Special Town Meeting in September 2018 to Neighborhood-Business Light. Mr. Mark confirmed that he has met with the Local Historic District Commission and the Design Review Board to address the historic value and details of the building. During the NB-Light rezone, Mr. Mark entered into a Memorandum of Understanding (MOU) with the Town to maintain and restore the 397 Washington to its historic façade. Upon this informal approval from the two committees, Mr. Mark created the plans for the new use and updated site design of the building as he has prepared the plans for permitting.

Mr. Mark explained that the updated building will become a first floor real-estate office for Waterfront Realty Group, Inc., with two two-bedroom apartments on the second and third floors.

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Mr. Mark said the building will remain largely unchanged, but will have two additions that will remain within the existing footprint. Mr. Mark's overall goal is to restore the building to its original aesthetic and remain with the historic character of Washington Street.

Mr. Mark plans to use the existing right-of-way to access the property, which has been approved for the use of emergency vehicles by Fire Chief Nord. Mr. Mark explained that the proposed parking area is located with the goal of minimizing disturbance to property abutters. The drainage will be located under the parking lot, as grade changes limit other options suitable for treating the water on site while maintaining the aesthetic.

Mr. Mark is proposing to construct a new septic system to accommodate the new use of the building. The new septic will be a gravity system.

Mr. Mark plans to keep as much of the existing vegetation as possible, although much of it is overgrown and/or unhealthy. There is a mature Linden tree on the property that will be kept and protected. The Planning Board asked that Mr. Mark make an effort to protect the tree during construction activities by enclosing it with a protective fence barrier.

Mr. Mark has plans for two lights on either side of the proposed parking lot, both downward facing and conforming to zoning. There will also be lights at the two entrances of the building, and the existing walkway lights will be maintained. Two lights behind the building will be added as well. There will also be a flagpole (shown on the landscaping plan) that will be lit. In addition, the existing stonework signage (leftover from Battelle) will be updated with Waterfront Realty's signage and have lights.

Ms. Massard reiterated that this property is one of the two historic properties that was recently rezoned at the Special Town Meeting in September 2018 to Neighborhood-Business Light (NB-Light), and that the approved zoning bylaws are currently under review by the Attorney General (AG), and that the applicant is proceeding at his own risk with this project with the chance that the AG could reject the NB-Light zoning.

Ms. Massard added that Mr. Mark has filed for both the Administrative Site Plan Review (ASPR) and the Zoning Board of Appeals (ZBA) Special Permit at the same time, so the Planning Board needs to make a decision on the ASPR as well as make a recommendation to the ZBA.

Ms. Massard said she believes Mr. Mark has met all of the requests and requirements and recommends favorably on this proposal.

Mr. Patrick Brennan, of Amory Engineers, recently reviewed this proposal as the Town's peer reviewer and recapped his comments made in the letter dated November 14, 2018. Mr. Brennan worked with Duxbury Construction, LLC to make some changes to the plan and the drainage calculations. Mr. Brennan said any outstanding concerns and comments made by Amory Engineers have since been addressed by Duxbury Construction and the applicant.

Per Mr. Uitti's request, Mr. Mark agreed to add protection for the Linden tree on the plan. Mr. Bear asked what the drainage system will look like. Mr. Brennan said the drainage system will flow from a catch basin into an oil and grit separator which will separate sediments and oil before reaching a concrete galley surrounded by crushed stone. According to Mr. Brennan, the site contains sandy soils that are well-suited for infiltration.

Mr. Wadsworth asked about the possibility of creating a low-impact design to help manage storm water. Mr. Mark responded that a low-impact design was considered, but due to the grade of the parcel, it would not be possible.

Lori Hall, of 175 Abrams Hill Road, said she likes the idea of protecting the Linden tree during construction. Mr. Glennon said the tree protection should be added to the plan, which Mr. Mark agreed to do.

Motion: Mr. Glennon made a motion to approve the Administrative Site Plan Review application of 397 Washington Street, as shown on the plans titled "Proposed Site Improvements in Duxbury", as amended through November 14, 2018. Mr. Bear provided a second.

Vote: 3-1, with Mr. Wadsworth opposed due to site grades limiting the drainage to conventional design. Mr. Wadsworth seeks low-impact design on all projects to reduce nutrient loading. The size of the lot and steep grades will not support a low-impact design (raingarden).

D.) ZBA REFERRAL, SPECIAL PERMIT: 397 Washington Street

Please refer to the previous item (C.), the discussion of the Administrative Site Plan Review, as it applies to the Special Permit as well.

Motion: Mr. Glennon made a motion to recommend approval to the Zoning Board of Appeals for the Special Permit application of 397 Washington Street to convert the existing building into a real-estate office with second-floor residential apartments. Mr. Bear provided a second.

Vote: 3-1, with Mr. Wadsworth opposed due to site grades limiting the drainage to conventional design. Mr. Wadsworth seeks low-impact design on all projects to reduce nutrient loading. The size of the lot and steep grades will not support a low-impact design (raingarden).

E.) METROPOLITAN AREA PLANNING COUNCIL PRESENTATION: Phase 2 Comprehensive Plan Update and Community Forum Feedback by Josh Fiala

Josh Fiala, Senior Planner, and Darci Schofield, Environmental Planner, both of MAPC, returned to the Planning Board meeting to report their findings from the October 24 Envision Duxbury Community Outreach Forum.

Mr. Fiala informed the audience that the outreach poster boards from the community forum are available online and that MAPC is still accepting feedback from anyone who wishes to

participate. Mr. Fiala reported that the top priorities found at the forum were sidewalks and walkability, seawalls, and the connectivity of the town.

The presentation boards: Economic Development, Transportation and Circulation, Public Facilities and Services, Sustainability – Energy, and Sustainability – Climate, as well as the full slideshow presentation from the Oct. 24 community forum can be reviewed at <http://envisionduxbury.mapc.org/phase-2/>. All comments and feedback can be directed to Josh Fiala or the Planning Department staff.

Mr. Wadsworth stated that he does not agree with MAPC's finding that salt water intrusion is an issue facing Duxbury's aquifers. There was discussion that the recommendation is due to sandy soils, and Ms. Schofield recommends studying this possible threat scientifically, since the Board of Health reports that saltwater intrusion is occurring in some oceanfront irrigation wells. The saltwater lens could move with sea level rise in these types of soils, and referred the Board back to her presentation and the plans themselves.

Ms. Schofield added that her formal presentation of the Hazard Mitigation Plan to the Board of Selectmen will be November 19 at 7 PM.

F.) DISCUSSION: MEDICAL MARIJUANA ZONING

Amy Kwesell, of KP Law, P.C. (Town's counsel), explained the current marijuana zoning regulations as well as some changes that are coming up in the future. Ms. Kwesell explained that, as of right now, the Department of Public Health is the controlling body of both medical and recreational marijuana. However, as of January 2019, the Cannabis Control Commission will be taking over as the governing body, and although current case law would not allow a ban, this new regulatory framework could allow a ban as the original legislation for medical marijuana is worded and what remains to be seen is if the regulations will be changed.

Ms. Kwesell reminded the audience that Duxbury voted no on question 4 regarding recreational marijuana. However, if the Town is unable to ban marijuana, there are still steps the town can take to regulate it. Therefore, Ms. Kwesell recommended taking two separate actions as the spring 2019 Annual Town Meeting approaches. The first option would be to outright ban marijuana in a medical capacity, contingent on the AG. The second option, to regulate, could involve creating a zoning overlay district specific to medical marijuana. With an overlay district, the town can determine suitable areas in which they would allow medical marijuana. In addition, Ms. Kwesell explained that any medical marijuana cultivator or retailer would have to enter a "Host Agreement" with the Board of Selectmen, who would also provide a Letter of Non-opposition to the facility. The Town has banned recreational marijuana.

Because of the discussion needed to consider a suitable site, Ms. Massard recommended starting the public hearing process December 12, at 7 PM, in the Mural Room, to allow for continuation into January and February.

Ms. Kwesell reminded the board that marijuana cultivation does not fall under an agricultural exemption.

Reverend Dr. Katheryn Cullen, of Duxbury FACTS, explained that the state regulations will not allow a medical marijuana facility within 500 feet of a school or other facility where children congregate. Dr. Cullen added that to her knowledge, towns can increase this buffer as they see fit.

H.) OTHER BUSINESS

1. PERFORMANCE GUARENTEE REDUCTION: Nash Road and 232 Surplus Street

Ms. Massard reminded the Planning Board that they recently approved the Nash Road Performance Guarantee Estimate from Merrill Engineers for \$89,152 in an agreement with JRM Investment Realty, LLC. The Planning Department recently received an updated Estimate from Merrill, reducing the Performance Guárantee amount to \$80,940 to complete to subdivision.

Motion: Mr. Bear made a motion to reduce funds in the amount of \$8,212 from the cash performance surety posted to secure construction of ways and installation of municipal services in the subdivision of land shown on a plan entitled “Definitive Subdivision Plan #232 Surplus Street, Duxbury, MA”, by Grady Engineering, LLC dated October 27, 2017, owned by JRM Investment Realty 2010 LLC, address: 56 Honeysuckle Lane, Hanover, MA 02339, land located: 232 Surplus Street, Duxbury, MA, and showing five (5) proposed lots and being recorded with Plymouth County Registry of Deeds in Plan Book 62, Page 200. The original amount posted was \$89,152.00, and the amount remaining shall be \$80,940.00 for the surety of the remainder of the completion of the subdivision construction and requirements.

Vote: 4-0, unanimous.

2. MINUTES

The meeting minutes from 9/26/18, 10/10/18, and 10/24/18 were approved for release as written.

3. CONSTRUCTION ESTIMATES

The Construction Cost Estimates for October 2018 were reviewed.

4. Planning Board Meeting Schedule

The Planning Board received tentative schedules for the 2019 Planning Board meetings. Because 3 members were absent, the Board decided to review the 2019 schedule during the next meeting.

ADJOURNMENT

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Motion: Mr. Wadsworth motioned to adjourn at 10:15 PM, and Mr. Bear provided a second.

Vote: 4-0, unanimous.

The next Planning Board meeting will take place on November 28, 2018 at 7:00 PM at the Duxbury Town Hall, 878 Tremont Street, Mural Room, lower level.

Materials reviewed at the meeting:

- ANR Application and Plan: 124 Evergreen Street
- ANR Application and Plan: 1 & 7 Modoc Street
- ASPR Application and Plan: 397 Washington Street
- ZBA Special Permit Referral: 397 Washington Street
- Performance Guarantee Estimate: Nash Road
- Planning Board Minutes 9/26/18, 10/10/18, and 10/24/18

