



# Town of Duxbury Massachusetts Planning Board

TOWN CLERK  
2019 JAN 15 AM 8:49  
DUXBURY, MASS.

## Minutes 12/12/18

The Planning Board met on Wednesday, December 12, 2018 at 7:00 PM at the Duxbury Town Hall, 878 Tremont Street, Mural Room, lower level.

Present: Scott Casagrande, Chairman; John Bear; Brian Glennon; and George Wadsworth.

Absent: David Uitti, Vice-Chairman; Cynthia Ladd Fiorini, Clerk; and Jennifer Turcotte.

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

Mr. Casagrande called the meeting to order at 7:05 PM.

### OPEN FORUM / COMMITTEE LIASON REPORTS

Mr. Glennon wished a Happy Holidays to all.

Ms. Massard announced that the Hazard Mitigation plan has been sent to FEMA, making the Town eligible for relief funding. The Planning Department is currently working on a possible application for grant money to support the purchase of emergency generators for town buildings.

Ms. Massard said the Canal Street bridge has been repaired and reopened, and is now safe for access.

### A.) 7:05 PM – PUBLIC HEARING: MEDICAL MARIJUANA ZONING TOWN MEETING ARTICLES

Motion: Mr. Glennon made a motion to waive the reading of the public hearing notice, and Mr. Wadsworth provided a second.

Vote: 4-0, unanimous.

Ms. Massard reminded the public that this meeting will not be discussing recreational marijuana, which the Town has banned. Ms. Massard reviewed that Duxbury currently has no regulations on the local level on medical marijuana.

Ms. Massard gave an overview of medical marijuana as it pertains to Duxbury residents. Duxbury voted in favor of medical marijuana on Question 3 of the Commonwealth Ballot in

PLANNING BOARD MINUTES

Date: December 12, 2018

Page 2 of 6

2012, and the town enacted a temporary ban while regulation were sorted out at the time, and that moratorium expired in 2014. The oversight program created from this decision, established by the MA Department of Public Health, will be transferred to the Cannabis Control Commission (CCC) on December 23, 2018. As defined by state law and recent case law through 2018, Duxbury cannot ban medical marijuana treatment centers. There is a possibility, however, that the CCC will reconsider the regulations and allow towns to ban medical marijuana facilities. Because a majority of Duxbury residents voted in favor of medical marijuana and because a ban may not be viable, Town Counsel has suggested the creation of an overlay district as an alternative to a ban. An overlay district is one method of regulating the location of medical marijuana facilities. Ms. Massard said that because the outcome of the CCC's regulations is unknown, both options will be discussed during the Planning Board's public hearings, and a Town Meeting recommendation will be made at a later date.

Ms. Massard announced that the warrant language for the 2 proposed medical marijuana articles will be available in the Planning Office for anyone who wants to review them.

Ms. Massard mentioned that different medical marijuana uses within a facility as defined by the state (retail, cultivation, processing, etc.) can be specified for approval in a "Host Agreement", which a medical marijuana treatment center would be required to enter with the Duxbury Board of Selectmen before opening a facility.

Mr. Bear stated that state law requires all counties in the Commonwealth be allowed to have at least one medical marijuana treatment center, and Plymouth County already has one in progress.

Mr. Wadsworth said that because the Town voted in favor of medical marijuana, he is hesitant to ban medical marijuana completely without reasoning and support.

Mr. Neil Doherty, member of Duxbury FACTS, raised several points on the topic of medical marijuana. Mr. Doherty said he believes that by allowing medical marijuana facilities, the Town is setting a precedent for recreational marijuana facilities to follow. Mr. Doherty stated that of the two compounds found in marijuana, THC and CBD, THC has not been approved for medical use. THC is the compound that results in marijuana users experiencing a "high", whereas CBD has no psychoactive effects. Mr. Doherty added that the Plymouth medical marijuana facility is sited in an industrial park, which Mr. Doherty believes is more appropriate than in a residential area or a location near a school. Mr. Doherty encouraged the Town to consider how it would regulate a medical marijuana delivery service. Lastly, Mr. Doherty shared that marijuana impacts young developing brains of children, despite its positive medical effects on some adults.

Ms. Shelia Lynch, of 344 West Street, suggested that the Town do not do an outright ban, as the Attorney General may reject that decision. Ms. Lynch suggested that everyone research how similar communities have regulated medical marijuana, and believes Dover, MA is a great example. Ms. Lynch added that Marshfield, MA has defined "areas in which children congregate", and hopes that Duxbury will do the same. Ms. Lynch believes allowing doorstep delivery of medical marijuana would benefit patients and discourage the need for local facility in

PLANNING BOARD MINUTES

Date: December 12, 2018

Page 3 of 6

town. Mr. Bear responded that he is not sure the Planning Board would have jurisdiction over a medical marijuana delivery service.

Mr. Casagrande mentioned that he is more concerned with retail sales than a cultivation facility in Duxbury.

Ms. Patricia Boynton, of 47 St. George Street, said she is concerned about the nature of medical marijuana facilities being “cash-only” businesses. Ms. Boynton said she believes that operating a cash-only business of this caliber could lead to potential consequences for Duxbury. Ms. Boynton stated that she thinks selling marijuana around children is dangerous and that she supports an outright ban of medical marijuana treatment centers.

Motion: Mr. Glennon made a motion to close the public hearing for the medical marijuana ban, and Mr. Bear provided a second.

Vote: 4-0, unanimous.

Motion: Mr. Glennon made a motion to recommend favorably the Town Meeting warrant article to ban medical marijuana in Duxbury, and Mr. Bear provided a second.

Vote: 4-0, unanimous.

Motion: Mr. Glennon made a motion to open the public hearing for the Town Meeting warrant article to create a medical marijuana treatment center overlay district, and Mr. Bear provided a second.

Vote: 4-0, unanimous.

Mr. Casagrande said that the Town has not yet specified any potential locations for a medical marijuana treatment center overlay district, and would welcome any public feedback to help determine potential locations. Ms. Massard added that Planning staff can create maps based on suggestions made tonight. Ms. Massard said that the only criteria so far is the 500 foot buffer between a medical marijuana facility and a children’s facility (school, daycare, etc.), which is state law, and the town can decide to increase or decrease this buffer as it sees fit.

Mr. Glennon specified the definition of an overlay district, which is separate from its underlying zoning districts. Creating an overlay district is different than amending the allowable uses of an underlying district and contains the overlay district use to certain areas.

Mr. Bear said that Duxbury’s Neighborhood-Business 2 (NB-2) district is the closest zoning district the town has to an industrial zone (industrial zones were mentioned as potential medical marijuana zones), and that most of the NB-2 districts are occupied.

Ms. Shelia Lynch, of 344 West Street, said she would not recommend an overlay district, as it could result in the overlay district locating in a residential area. Ms. Massard responded that because 97% of the town is zoned residential, it would be nearly impossible to define an overlay district otherwise, and if one is not defined, a medical marijuana facility could then go anywhere so long as it conforms to state regulations. Ms. Massard reiterated that the location of the overlay district would be the decision of Town Meeting vote.

Mr. Matthew Walsh, of 24 Standish Street, gave his opinion on the potential medical marijuana presence in Duxbury. Mr. Walsh said that most medical marijuana patients purchase their cannabis with a debit card rather than cash monies. Mr. Walsh believes creating an overlay district in a 97% residential area will be a challenge.

Ms. Massard read the statutes that are referenced in the Town Meeting warrant language for the medical marijuana overlay district. This language can be found in the Planning Office or Town Clerk's office during normal business hours and any public comment is welcome.

Motion: Mr. Glennon made a motion to continue the public hearing for the Town Meeting warrant article regarding a medical marijuana treatment center overlay district to January 9, 2019 at 7:10 PM, and Mr. Wadsworth provided a second.

Vote: 4-0, unanimous.

## **B. TEAKETTLE LANE ACCESS IMPROVEMENTS**

Ms. Massard explained that the applicant, David Bitters, technically does not need approval from the Planning Board to complete this project, but it presenting it anyways in hopes of support from the town. If access is deemed adequate by the Building Department and Emergency Services, the vacant parcel on Teakettle Lane could potentially become a buildable lot.

Mr. Joe Webby, of Webby Engineering, explained that the applicant is seeking to make road and layout improvements to the start of Teakettle Lane at the intersection of West Street through the frontage property line at 62 Teakettle Lane, in order to create a buildable lot. Currently access to this lot is not adequate and the lot is unbuildable as a result.

Ms. Massard said the applicant plans to leave the existing drainage system and utilities unchanged, and has not provided a maintenance plan. Teakettle Lane is a private way.

Mr. Casagrande asked about the long-term plans for the remainder of this large parcel. Mr. Eugene Mattie, of Eugene Mattie Associates, said the applicant has no currently plans for that area, but any future developments would require approval from the Planning Board.

Ms. Massard mentioned that the current road layout is in poor condition and undersized, and the improvements would bring the road to 18 feet and comply with fire code. The Planning Board

has found, over several reviews, that the road is currently not adequate due to potholes, pavement in poor condition, narrow travel lane and lack of turnaround or pull-off areas.

Mr. Bear asked if the current road material will be removed. Mr. Mattie explained that it will and the new road material will be constructed according to town standards.

Mr. Casagrande said he would like to see the back portion of the lot protected. Mr. Glennon agreed and said this type of haphazard development is a slippery slope.

Ms. Shelia Lynch, of 344 West Street, lives across the street from the West and Teakettle intersection, and said she is worried about potential water runoff from the construction of new impervious surface.

Mr. Glennon said he believes this project is not within the Planning Board's jurisdiction. Although the Planning Board had no formal vote on this proposal, Ms. Massard agreed to make a recommendation to the Building Department (Staff Report) to require the applicant to provide engineered drainage calculations and a road maintenance plan, and that the drainage be peer reviewed in order to determine if it is adequate, with inspections and As-Built plans.

### **C.) OTHER BUSINESS**

#### *ENGINEERING INVOICES*

Approval of Merrill Invoice #6047 in the amount of \$3,675.00 was postponed until the next meeting.

#### *CONSTRUCTION COST ESTIMATES*

The November 2018 Construction Cost Estimates were reviewed.

#### *NEW BUSINESS FOR NEXT PLANNING BOARD AGENDA*

Ms. Massard briefly announced the upcoming public hearing items in regard to the March 2019 ATM Warrant Articles, which includes: Inclusionary Housing, FEMA Flood Risk Map updates, Demolition Delay, and Neighborhood Business coverage. There will also be an article to correct a scrivener's error in the Zoning Bylaw. The Planning Board has four (4) more meetings before the March 2019 Town Meeting.

### **ADJOURNMENT**

Motion: Mr. Wadsworth made a motion to adjourn at 9:25 PM, and Mr. Bear provided a second.

Vote: 4-0, unanimous.

*The next Planning Board meeting will take place on January 9, 2019 at 7:00 PM at the Duxbury Town Hall, 878 Tremont Street, Mural Room, lower level.*

PLANNING BOARD MINUTES

Date: December 12, 2018

Page 6 of 6

Materials reviewed at the meeting:

- Warrant Language for Medical Marijuana Town Meeting Articles
- Teakettle Lane Access Improvement Plan
- Staff Report Teakettle Lane
- Merrill Engineers Invoice #6047
- November 2018 Construction Cost Estimates