



# Town of Duxbury Massachusetts Planning Board

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DUXBURY, MASS.

## Minutes 01/24/2018

The Planning Board met on Wednesday, January 24, 2018 at 7:00 PM at the Duxbury Town Hall, 878 Tremont Street, Mural Room.

Present: Scott Casagrande, Chairman; Cynthia Ladd Fiorini, Clerk; John Bear, Brian Glennon, Jennifer Turcotte, and George Wadsworth.

Absent: David Uitti, Vice Chairman.

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

Mr. Casagrande called the meeting to order at 7:02 PM.

### OPEN FORUM

No items were brought forward for Open Forum.

### ANR PLAN OF LAND: 166 & 170 MARSHALL STREET / DUXBURY CONSTRUCTION (IRVING / GARBARINO)

Mr. Casagrande invited Mr. Freeman Boynton of Duxbury Construction to present the proposal on behalf of his client, the Garbarinos. Mr. Boynton explained that this ANR is a trade-off of a couple of small parcels to make the lots more usable. It involves 319 square feet of area and the plan has been prepared to meet Land Court standards because part of the property is on registered land. He stated that the Land Court has accepted the plan that is before the Planning Board tonight. Ms. Massard recommended endorsement of this plan that is a small land swap.

Mr. Glennon asked about a detail on the top left of the plan that references "Lot X," noting that he does not see Lot X elsewhere on the plan. He stated that typically he would ask for tie lines in order to show which parcels will be conveyed to which lot. He stated that although he has no objection to the land swap, tie lines would be helpful.

Mr. Boynton stated that he believes that tie lines can be added only once the Planning Board endorses the plan. He stated that it is clear in the notes which parcels are to be combined with which lots. Ms. Massard stated that typically there are no tie lines until the plan goes to Land Court. She stated that she is hesitant to see the Planning Board overrule Land Court. Mr. Casagrande asked Ms. Massard to obtain clarification from Land Court on this matter. Mr. Glennon stated that he would still vote to endorse the plan but it would be helpful in the future to see tie lines on ANR plans.

Ms. Ladd Fiorini expressed confusion over references to Lot 7 and Lot E in Note 1, stating that she cannot find either. Mr. Boynton explained that Lot 7 is the Land Court portion of the Garbarino lot. Ms. Ladd Fiorini stated that Lot 7 is not identified on this plan. Ms. Massard explained that the proposed plan was compiled from earlier plans using Land Court references. Ms. Turcotte noted that it appears that Lot X on the plan would be taken from Lot E.

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PLANNING BOARD MINUTES

Date: January 24, 2018

Page 2 of 12

**MOTION:** Mr. Bear made a motion, and Ms. Ladd Fiorini provided a second, to endorse a Plan of Land entitled, "Plan of A.N.R. Lots being a Subdivision of Lot 7, Plan 18377-D and Lot 'E' of Plan #248 of 1954, #166 & #170 Marshall Street, Duxbury, MA"; dated 11/17/17; prepared by J. Lowell Associates, 21 Fish Street, Pembroke, MA 02359; stamped and signed by Lloyd J. Lowell, RPLS; scale 1" = 30,'as not requiring approval under Subdivision Control Law.

**DISCUSSION:** Mr. Wadsworth asked for another clarification on the plan, noting that it is confusing to look at.

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

Planning Board members endorsed the mylar and two paper copies of the plan.

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

Mr. Casagrande opened the public hearings at 7:14 PM.

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

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

**RE-ZONE OF ISLAND CREEK OYSTER PROPERTIES (FORMER BATTELLE LABS) AT 0, 397, 401 AND 405 WASHINGTON STREET (CITIZEN PETITION):**

Present for the discussion from Island Creek Oysters, the petitioner, was Mr. Chris Sherman, President of Island Creek Oysters.

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

- Citizen Petition filed with Town Clerk on 11/22/17
- Draft PB minutes of 12/13/17
- GIS map submitted by ICO at PB meeting 12/13/17
- Public hearing notice stamped with Town Clerk on 01/09/18; mailed to regional planning agencies, the Department of Housing & Community Development, and abutting towns' Planning Boards on 01/09/18; and published in the Duxbury Clipper on 01/10/18 and 01/17/18
- Emails between L. Hall and V. Massard dated 01/14/18 – 01/16/18 re: Island Creek
- Emails between V. Massard et al dated 01/18/18 re: Draft MOU for the Planning board packets (with draft Memorandum of Understanding).

Ms. Massard provided some background, noting that Island Creek Oyster (ICO) purchased this property on Washington Street that was the former Battelle Labs. ICO is an agricultural use and this property has direct access to the waterfront along with several buildings, making it an ideal location for their operations. They are asking through a citizen petition to re-zone the property from Residential Compatibility to Neighborhood Business 1 (NB1). She noted that the property next door, Bayside Marine, is Neighborhood Business 2 (NB2), a more intense-use zoning. Portions of the land are also in the Wetlands Protection Overlay District and the floodplain overlay. She stated that the Planning Board most recently reviewed this property as an 8-lot subdivision proposal by a former owner.

Mr. Casagrande invited ICO to present their petition. Mr. Chris Sherman thanked Ms. Massard for her introduction. He stated that this is the second time ICO has come before the Planning Board for this petition; the first time was for a zoning workshop in December 2017. He noted that he has also met with the Finance Committee and the Local Historic District Commission (LHDC). He stated that he would like to provide additional background for the public hearing record.

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## PLANNING BOARD MINUTES

Date: January 24, 2018

Page 3 of 12

Mr. Sherman stated that ICO purchased the land on November 1, 2017 after four years of “wrangling” with property owners. He stated that this is a unique situation because Battelle Laboratories was on the site for about 50 years. When Battelle moved out of the facility in Duxbury a few years ago there was talk of a university buying it as a lab space for a graduate program, but that did not come to fruition. Then there was a proposed condo development that was proposed for rezoning at last year’s Town Meeting that was voted down. The former owners then filed for an 8-lot by-right subdivision but there was resistance from the community because residents wanted to protect the historic homes on the property and they were not ready to “give away” the waterfront to private residential ownership.

Mr. Sherman stated that as a business and farming operation, ICO has maxed out its current facilities. As lifelong Duxbury residents, the owners took the opportunity to move the business to this ideal location and would like the business and site to remain an asset to the town. He stated that ICO had approached the Town of Duxbury to work on a collaborative approach to figure out how to legally operate a business in this location, and ICO was told that the only way to get a compatible use for some of the proposed uses, such as leasing space to realtors, legal office, is to rezone the property. In doing their research ICO concluded that they did need this latitude in order to fit the property to their business goals.

Mr. Sherman outlined some areas of concern that he has heard from the Planning Board, the Finance Committee and the LHDC:

- Lack of site plan
- The many possibilities for what could be done in an NB zone
- What if ICO rezones and then sells the property (or a portion of it)?

Mr. Sherman stated that this is a “chicken and egg” situation because ICO needs the zoning in order to determine what they could do. He stated that they are willing to work with the town and the larger community in order to put thriving uses there. He stated that ICO’s intention is to extend the Snug Harbor district and if they sold it what will end up there would look similar to the shops at Snug Harbor up the road. Mr. Sherman stated that there are ways to safeguard against “scary outcomes” like some allowed uses listed in the NB1 District in the Zoning Bylaws and ICO does not want to leave an undesirable legacy.

Mr. Sherman addressed the two historic homes on Washington Street as a potential part of a Local Historic District. Ms. Massard has drafted a Memorandum of Understanding (MOU) concept which he said would be a legally binding document that would be contingent on the zoning approval. The MOU states that ICO will work with the LHDC to submit the two structures for approval as new Local Historic Districts at Annual Town Meeting 2019 because there is not enough time to submit it for this year’s Town Meeting. In the event a building permit is filed for the two structures in the meanwhile, ICO will voluntarily treat the structures as though they were in a Local Historic District. Mr. Sherman stated that at the Finance Committee meeting, members of the LHDC asked about the third existing home on the property, and Mr. Sherman stated that ICO is willing to consider including that structure in the Local Historic District also.

Mr. Sherman noted that the large Clapp building on the north side of the property was built in 2004 and it is the only uncertain piece of the project. He stated that ICO is open to suggestions for what to do with that building. He stated that the waterfront use for their oyster business is appropriate and ICO is working with their abutting Winsor Street neighbors so as not to disrupt the neighborhood.

Mr. Sherman invited the Planning Board and the public to an upcoming information session being hosted by ICO and facilitated by its land use planner consultant.

Ms. Massard clarified that the Memorandum of Understanding is separate from the zoning article. She explained that the Local Historic District process includes the LHDC reporting to the state that it has determined that the structures are appropriate and then going to Town Meeting if the LHDC recommends it. She stated that the LHDC has expressed its strong support for the proposed article and ICO has pledged to treat the two structures as historic and she believes that the state would agree to these structures in a Local Historic District if it is proposed. She stated that it appears that ICO is listening to what people are saying.

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## PLANNING BOARD MINUTES

Date: January 24, 2018

Page 4 of 12

Mr. Casagrande stated that his concern is that the frontage requirement for a Neighborhood Business (NB) District is 50 feet. Even if the structures are in a Local Historic District the underlying zoning will still be NB so there could be a conglomeration of buildings expanding up Washington Street. He stated that it is great the ICO is agreeing to the concept of putting the structures into a Local Historic District but his issue is with the NB District. He stated that there are no side setbacks in the NB District. He cautioned that the Planning Board needs to look at a future potential for land, and there could be three-story high buildings with offices on the first floor and condos above set side by side. Ms. Massard stated that what Mr. Casagrande has described would require a special permit. Mr. Casagrande agreed that the likelihood is low but the Planning Board needs to look at the potential use. He stated that he would not like to see the NB district creeping up Washington Street. He stated that the land closer to Bayside Marine might be a more appropriate NB area.

Mr. Sherman stated that ICO is grappling with the issue also, and the type of zoning Mr. Casagrande is describing is not the direction ICO wants to take. Mr. Sherman stated that they ended up with a proposal for NB because they were using the tools at hand. He stated that the NB rezoning is what was suggested to ICO and ICO is open to alternatives. He stated that no potential homebuyer will want the industrial interiors that exist in the historic structures now, with commercial-grade carpet and exit signs, and it does have bulldozer potential. He stated that ICO is caught between a rock and a hard place, and they would prefer not to use those buildings.

Mr. Casagrande suggested that ICO consider creating a new "Aquaculture Business District" that would not allow for further subdivision of land, admitting that it would require a good deal of vetting and would not be ready for this year's Town Meeting. He stated that he is not sure that NB zoning fits what ICO wants to do. Mr. Sherman stated that ICO continues to analyze their options and they are open to discussion of uses that fit their business. There is no proposal to change the site plan; existing buildings are to be used..

Mr. Casagrande asked for Town Hall staff's opinion of use variances, and Ms. Massard responded that Town Hall staff does not recommend use variances. Mr. Casagrande stated that he understands that position because if one applicant is granted a use variance, other applicants will expect one also.

Mr. Glennon stated that he understands that ICO has more land than it needs. He noted that zoning districts do not need to cover the entirety of lots. He suggested that ICO consider limiting the extent of the NB district to the part of the property that they want to use. He noted that agricultural uses have relaxed standards so ICO may not need to re-zone for that. He stated that they could choose to re-zone the existing commercial building and it would not affect the streetscape. He stated that it does not need to be all or nothing. He agreed with Ms. Massard's point that ICO should not rely on a use variance. Mr. Sherman stated that Mr. Glennon's recommendation is something ICO could consider, stating that ICO is open to suggestions.

Mr. Wadsworth noted that the plan submitted with the citizen petition to re-zone does not show the recently approved subdivision lots filed by the former owner, and Mr. Sherman responded that the new lot lines are not on record because the Definitive Subdivision plans were never recorded although they could be in the future. Ms. Massard confirmed that the lot lines do not become effective until the approved plan is recorded at the Plymouth County Registry of Deeds. Mr. Wadsworth suggested that if the subdivision plan lot lines divide off the two dwellings along Washington Street, those lots could remain as Residential Compatibility. He stated that the subdivision plan may create pieces of the puzzle to re-zone the property in a favorable way. He noted that although owners may come and go, zoning stays with the land. He recommended that ICO consider the list of activities that could take place in the NB1 district. He suggested a potential "NB3" zoning district with activities that could support what ICO would like to do.

Mr. Sherman responded that ICO has been working with Ms. Massard and ICO realizes they may need more nuance to their proposal. He stated that there is time to figure this out and they do not want to ram anything through. He confirmed that ICO does have possession of the subdivision plans, and four lots currently exist even without the subdivision plan. He stated that ICO does not have plans for a large amount of construction.

## PLANNING BOARD MINUTES

Date: January 24, 2018

Page 5 of 12

Mr. Casagrande asked exactly what ICO has in mind for the property. Mr. Sherman stated that ICO has spoken with the University of Massachusetts and Mr. Merrill Diamond, the former property owner, and also looked into the possibility of using the houses along Washington Street as inn rooms for the Winsor House Inn. He stated that ICO mainly wants the property for water access, and support for their operations. Mr. Casagrande confirmed that ICO may wish to relocate its retail store from Parks Street to this new location. Mr. Sherman stated that ICO has no intention for a full service restaurant but would like to offer its educational extension program such as its Time & Tide program. Mr. Sherman stated that there is a sliding scale of potential uses that complement the ICO business. Mr. Casagrande suggested that ICO consider a new "Aquaculture District" that would allow similar uses without the 50-foot frontage and would keep the existing structures without adding more.

Mr. Glennon stated that although he sees where Mr. Casagrande is headed, the Comprehensive Plan review is underway and Mr. Glennon may not want to support a new zoning district until the Comprehensive Plan update is completed. Mr. Glennon expressed support for Mr. Wadsworth's suggestion to use the subdivision lots to separate the zoning. Ms. Massard noted that ICO would still need access to the site. Mr. Glennon stated that ICO could file an ANR plan to create appropriate areas for ICO use.

Mr. Wadsworth again reminded Mr. Sherman that zoning stays with the land and the concern is what future owners might do with the land. Mr. Sherman stated that he understands and that ICO cherishes its legacy and would like to continue to engage in dialogue. Mr. Bear stated that ICO may be risking its good will with the current proposal, noting that there is a lot of "trust me" involved. He noted that there is no plan proposed with the petition to re-zone and stated that ICO is asking for a good deal of trust. Mr. Sherman stated that they have a site plan with a lot of contingencies but no comprehensive plan for the property at this time, and they have no plans for further development and the intention is to use buildings that have been on the site for 40-50 years.

Mr. Casagrande invited public comment. Ms. Sarah McCormick of 251 Saint George Street asked how the land can be zoned Residential Compatibility now when Battelle Laboratories operated a business there for many years. Mr. Casagrande responded that Battelle was an educational use that was exempt. Ms. McCormick stated that she likes the idea of mixed zoning that Mr. Glennon and Mr. Wadsworth suggested. She stated that it is crowded along the waterfront and asked if ICO would allow the public and/or other oyster growers to use the waterfront. Mr. Sherman responded that ICO is committed to public access to provide a place to walk and enjoy the waterfront; however, ICO has no plan for a public landing at the site. He noted that allowing ICO farmers to unload at their deep water bulkhead will offer the farmers better efficiency and will decrease the use at the town landing on Mattakeeset Court. Ms. McCormick cautioned Mr. Sherman that many residents opposed a former proposal for a waterfront condo development because of its height and view from the water.

Ms. Sara Wilson of 120 Bay Road stated that she is in a quandary because she likes the Bennett family (ICO owners) and admires what ICO has accomplished. She stated that she believes that it might be risky to develop along the coastline where sea level is rising. She stated that even with the best of intentions, sometimes strange things can happen and there is not good enforcement and many instances of noncompliance in the town. She listed examples of what could go wrong, noting that her concern is for potential future owners. She noted that the houses along Washington Street could still be added to the proposed Local Historic Districts for this year's Town Meeting if the LHDC agrees.

Mr. Cap Kane of 251 Harrison Street stated that he does not have the same fears as those expressed at tonight's hearing. He stated that although it might be better to have plans to look at, he recognizes that ICO is looking for dialogue. He stated that it appears that there is a variety of opportunities for ICO to accomplish its goals. He suggested that ICO consider working with the Massachusetts Historical for preservation of the homes on Washington Street so the homes would be restricted without getting the Town of Duxbury involved. He supported the way ICO is approaching the process through public and private dialogue.

Ms. Lorrie Hall of 175 Abrams Hill stated that she was relieved when ICO purchased the property. She stated that town residents might be very unhappy unless the streetscape remains the same and therefore she does not believe an NB re-zone would pass at Annual Town Meeting. She asked if the owners of the Winsor House Inn have indicated

## PLANNING BOARD MINUTES

Date: January 24, 2018

Page 6 of 12

interest in ICO's idea to use the houses along Washington Street as inn rooms. Mr. Sherman stated that there is ongoing dialogue.

Mr. Fernando Guitart of 14 Powder Point Avenue stated that he agrees with Mr. Kane and asked what the next step would be. Ms. Massard responded that the Planning Board process so far has been a workshop with ICO on their thoughts with public input, and now the public hearing. She stated that the ICO people will take in the feedback that has been offered and continue the dialogue with its own public outreach before deciding how to go forward. Mr. Kane asked if a different level of zoning can be proposed on the floor of Town Meeting, and Ms. Massard replied that the Board of Selectmen has closed the warrant but the article could be amended on Town Meeting floor as long as the proposal is simple and easy to understand, and is related to the shape of the zoning footprint.

Mr. Casagrande asked if Ms. Massard would recommend continuing the public hearing, and Ms. Massard responded that it appears that ICO would like more time to do its public outreach and consider its course of action.

**MOTION:** Ms. Turcotte made a motion, and Mr. Glennon provided a second, to continue the public hearing for a Citizen Petition to Re-Zone Island Creek Oyster Properties (Former Battelle Labs) at 0, 397, 401 And 405 Washington Street to February 14, 2018 at 7:05 PM.

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

### **LOT COVERAGE IN NEIGHBORHOOD BUSINESS DISTRICTS (PLANNING BOARD):**

Mr. Casagrande opened the public hearing at 8:30 PM for this proposed amendment to the Zoning Bylaws to add a definition for Floor Area Ratio (FAR); to change the maximum lot coverage from 50 percent to 70 percent; and to add language to limit the FAR to a ratio of 1.5 to 1.

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

- Draft warrant article language distributed to PB on 12/13/17
- Draft PB minutes of 12/13/17
- Warrant language stamped with Town Clerk on 01/09/18
- Public hearing notice stamped with Town Clerk on 01/09/18; mailed to regional planning agencies, the Department of Housing & Community Development, and abutting towns' Planning Boards on 01/09/18; and published in the Duxbury Clipper on 01/10/18 and 01/17/18.

Ms. Massard provided an overview of the proposed Zoning Bylaw amendment. She noted that Neighborhood Business (NB) Districts cover three percent of the land in Duxbury. She stated that business owners would like to see coverage numbers that make sense and 70 percent coverage for buildings and parking seems reasonable. She provided some history that there were stalemates at 60, 70 or 80 percent lot coverage when the topic was reviewed by a subcommittee in 2011 as described in the explanation section of the article. She stated that it is agreed that lot coverage does need to be increased from its current maximum of 50 percent, and so staff has put forward the 70 percent lot coverage proposal for this year's Town Meeting. She noted that amendments could be made on Town Meeting floor.

Ms. Massard introduced the concept of using Floor-Area Ratio (FAR) as another tool to contain development on a lot in the NB Districts. FAR is defined as "Gross floor area of all buildings on the lot measured in square feet, divided by the total square footage of the entire lot." Using the Millbrook Station on Saint George Street and Railroad Avenue as an example, Ms. Massard calculated the FAR at that site as .22, far below the 1:1.5 ratio proposed in the proposed bylaw amendment and discussed the allowed uses in NB dictate almost 1,200 square feet of space per each 250-300 square feet of use, so that we will never be approaching the FAR as an issue with this zoning, it could be dropped. She noted that the Planning Board could decide if the FAR requirement is needed because the real focus is on lot coverage. Ms. Massard concluded by stating that 70 percent maximum lot coverage appears to work for everyone today, and it most closely aligns with what we see in most NB lots today.

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## PLANNING BOARD MINUTES

Date: January 24, 2018

Page 7 of 12

Mr. Glennon thanked Ms. Massard for addressing this ongoing issue, and asked if this is the right time to undertake Zoning Bylaw amendments when there is a Comprehensive Plan update underway. Ms. Massard responded that zoning amendments will not happen all at once as a result of the Comprehensive Plan update. She expects five or six zoning articles per year for the next ten years rather than one wholesale Zoning Bylaw re-write. She stated that she feels the timing is right with Dr. Hamori, Millbrook (Juliano), and Duxbury Marketplace bringing the issue to the forefront with their proposed site improvements. She stated that she does not believe the proposed amendment would harm the Comprehensive Plan process, but it is up to the Planning Board to make that decision.

Mr. Casagrande stated that the Comprehensive Plan is a long-term process. He noted that there are many commercial parking lots that were granted with a percentage of gravel parking in order to meet lot coverage requirements. There are concerns that using asphalt might be a better way to capture runoff than compacted gravel. He stated that FAR can be included now and tweaked later if needed. He stated that business owners in Duxbury are clamoring for a more realistic Lot Coverage bylaw and it seems like a good time to address it. He stated that he believes there would be support for 70 percent maximum coverage.

Mr. Bear stated that there may be only two or three small lots available in the NB district, and the other lots affected by this bylaw would be for redevelopment. He stated that he believes that this bylaw will work, noting that when the sub-committee looked at existing sites in 2011 the actual lot coverage was closer to 75 percent.

Mr. Wadsworth stated that it is already known that the bay is impacted by stormwater, and to increase the impact to the bay through increasing the allowed lot coverage would require a better plan for treating stormwater through Low-Impact Design techniques. He stated that he would like to see a requirement for handling stormwater to be added to this amendment. Ms. Massard noted that last year's Town Meeting allocated funds for creating new stormwater guidelines, and pre-existing conditions will not apply to new development. She stated that the proposed bylaw amendment does not change the requirement to treat stormwater. Currently the Town of Duxbury allows "pervious" gravel with no stormwater treatment. She noted that this bylaw represents an incremental step and the stormwater guidelines would be a separate process.

Mr. Wadsworth noted that parcels such as some at Bongi's have not been developed. Ms. Massard stated that the Planning Board will review any future development proposal through Administrative Site Plan Review, and a special permit through the Zoning Board of Appeals (ZBA) may also be required. She noted that stormwater guidelines will apply to all jurisdictions, including the Planning Board, ZBA, Board of Health and Conservation Commission, and that is why funding was sought. Also, any guidelines need to meet Environmental Protection Agency requirements. Mr. Wadsworth suggested that the Planning Board consider addressing stormwater guidelines before proposing Lot Coverage amendments. Mr. Casagrande noted that the ZBA just allowed gravel at Dr. Hamori's property, and Mr. Bear added that the owner at Duxbury Marketplace would like to re-do the parking lot. Ms. Ladd Fiorini stated her concern with adding the FAR requirement because it is confusing. She stated that she is in favor of changing the lot coverage maximum to 70 percent.

Ms. Turcotte departed the meeting at 9:00 PM.

Ms. Massard offered that the FAR requirement could be removed because it addresses massing rather than lot coverage. She stated that she offered it as a conversation starter.

Mr. Casagrande invited public comment. Ms. Sara Wilson of 120 Bay Road stated that there is no reason to repeat the mistake of allowing greater lot coverage. She asked if Planning Board members looked at gravel parking lots at businesses in town at all times of the year, and Mr. Casagrande replied that he had. Ms. Wilson stated that her observation from doing this is that the large majority of businesses have 70 percent lot coverage with gravel and the gravel area remains empty most of the time. She asked if the Planning Board would consider requiring new businesses to have a maximum of 50 percent coverage and existing businesses 70 percent coverage. She stated that brick and mortar businesses are not being used as much these days for retail. She suggested that existing gravel parking areas could be converted to grass. Mr. Casagrande stated that the Duxbury Marketplace needs all the parking they have, both paved and gravel.

## PLANNING BOARD MINUTES

Date: January 24, 2018

Page 8 of 12

Ms. Wilson stated that state environmental and planning agencies want lot coverage below 50 percent. She stated that 50 percent coverage looks more like the town's existing NB districts, noting that they are meant to look residential in character. She stated that commercial buildings that have been permitted with the 50 percent lot coverage are working, noting examples of the Wiemeyer dentist office and Snug Harbor Tile. She stated that increasing the maximum coverage would be a step backwards and it is not necessary to change the zoning requirement. She recommended that the Planning Board consider allowing existing businesses that use gravel parking to pave the parking and provide treatment of runoff. She also suggested that the FAR requirement should be eliminated because she is not sure it is relevant and it may scare people.

Mr. Bear stated that the FAR requirement is not needed to accomplish what we want to for now. Ms. Massard noted that a lot of business owners would like to clean up their parking and would like for the gravel to stay and still increase to 70 percent impervious coverage as long as drainage is treated. She noted that treating stormwater is the goal. She stated that it would be impractical to ask business owners to convert gravel parking to grass, noting that business owners are telling her that they need the amount of parking space they have been granted. Ms. Massard stated that parking and lot coverage are issues nationwide, not just in Duxbury. She stated that the town is struggling with the issue even though 97 percent of the town is residential, not commercial. She stated that it is important to keep the scale in context. She stated that while she agrees that more greenery is better for the environment and is a good way to treat stormwater, it is only a small area of town that would be affected by NB lot coverage requirements.

Ms. Wilson handed Ms. Massard a proposal that Ms. Massard read aloud that would limit the bylaw to special permits granted before 2011, and Ms. Massard asked why that date was used. Ms. Wilson stated that 2011 is when Town Meeting voted to remove allowing gravel, stating that the numbers may need to be double-checked. Ms. Wilson agreed that very little area in town is affected but the issue is the "super nasty pollution" from parking lots that is affecting rivers and bays out of proportion to the small amount of land. She stated that some of the runoff on NB land is within an Aquifer Protection Overlay District, near wetlands, near the Bluefish River or Snug Harbor, some vulnerable areas. Mr. Casagrande stated that it is all the more reason to capture the runoff.

Ms. Ladd Fiorini asked if the Planning Board wants to close the public hearing, and Mr. Casagrande stated that he is fine with the proposed bylaw as long as the FAR requirement is removed. Mr. Bear stated that the Planning Board should approve this.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Bear provided a second, to close the public hearing for a proposed amendment to the Duxbury Protective Bylaw Article 300 – Definitions, Section 302 (Definitions) and Article 400 – Use, Intensity, Dimensional and Coverage Regulations for All Districts, Section 425, "Intensity and Dimensional Regulations for All Neighborhood Business Districts."

**VOTE:** The motion carried 3-2, with Mr. Glennon and Mr. Wadsworth voting against.

Therefore, the public hearing closed at 9:35 PM.

**MOTION:** Mr. Bear made a motion, and Ms. Ladd Fiorini provided a second, to recommend approval of a proposed amendment to the Duxbury Protective Bylaw Section 302 (Definitions) and Section 425, "Intensity and Dimensional Regulations for All Neighborhood Business Districts," in order to add a definition for Floor Area Ratio; change the maximum lot coverage from fifty percent to seventy percent; and to add language to limit the Floor Area Ratio (FAR) to a ratio of 1.5 to 1); as amended to remove the definition for Floor Area ratio and to remove the language regarding limiting the FAR.

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



## PLANNING BOARD MINUTES

Date: January 24, 2018

Page 9 of 12

### **SOLAR UTILITIES INSTALLATION (PLANNING BOARD):**

Mr. Casagrande opened the public hearing at 9:33 PM for this proposed amendment to Zoning Bylaws to include Solar Photovoltaic Facility permits in the list of utilities installation uses by special permit.

The correspondence list for the record:

- Email from V. Massard to G. Wadsworth et al dated 12/22/17 re: Happy Holidays, Thanks and some random info
- Emails between B. Saint-Andre and V. Massard et al dated 12/29/17 re: Zoning Amendments
- Article warrant language stamped with Town Clerk on 01/09/18
- Public hearing notice stamped with Town Clerk on 01/09/18; mailed to regional planning agencies, the Department of Housing & Community Development, and abutting towns' Planning Boards on 01/09/18; and published in the Duxbury Clipper on 01/10/18 and 01/17/18.

Ms. Massard explained that this amendment would apply to the few cases where solar facilities are proposed in the Wetlands Protection Overlay District (WPOD) and a special permit is required. The Special Permit Granting Authority would now be the Planning Board, which makes sense because the project would already be before the Planning Board for Administrative Site Plan Review. She stated that it was discovered that a cross-reference is needed from the new Ground-Mounted Solar Photovoltaic Facilities bylaw that was recommended by the Planning Board at its last meeting.

Mr. Casagrande stated that this type of amendment is in line with what the former Zoning Bylaw Review Committee was attempting to do by streamlining processes. Mr. Glennon proposed one minor edit which would capitalize words referenced earlier in capital letters.

Mr. Casagrande invited public comment and there was none.

**MOTION:** Mr. Glennon made a motion, and Ms. Ladd Fiorini provided a second, to close the public hearing for a proposed amendment to Zoning Bylaws Section 404.6.5, "Uses Permitted by Special Permit, Utilities Installation" and Section 404.10, "Special Requirements for Utility Installation" in order to include Solar Photovoltaic Facility permits in the list of utilities installation uses by special permit.

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

Therefore, the public hearing was closed at 9:39 PM.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Glennon provided a second, to recommend approval of a proposed amendment to Zoning Bylaws Section 404.6.5, "Uses Permitted by Special Permit, Utilities Installation" and Section 404.10, "Special Requirements for Utility Installation" in order to include Solar Photovoltaic Facility permits in the list of utilities installation uses by special permit.

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

### **REMOVE MEDICAL MARIJUANA MORATORIUM (PLANNING BOARD):**

Mr. Casagrande opened the public hearing at 9:40 PM for this proposed amendment to Zoning Bylaws to include Solar Photovoltaic Facility permits in the list of utilities installation uses by special permit.

The correspondence list for the record:

- Draft warrant language distributed to PB on 12/13/17
- Warrant article stamped with Town Clerk on 01/09/18
- Public hearing notice stamped with Town Clerk on 01/09/18; mailed to regional planning agencies, the Department of Housing & Community Development, and abutting towns' Planning Boards on 01/09/18; and published in the Duxbury Clipper on 01/10/18 and 01/17/18.

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## PLANNING BOARD MINUTES

Date: January 24, 2018

Page 10 of 12

Ms. Massard stated that voters need to say "Yes" to the marijuana articles if they want to say "No" to marijuana in Duxbury. She reported that Chief Matthew Clancy had done a good job of presenting the marijuana articles for Town Meeting at a public forum at the Senior Center yesterday. She explained that a couple of years ago Town Meeting voted to enact a temporary moratorium on medical marijuana, and this bylaw has continued to be part of the Zoning Bylaws even though the moratorium expired in 2014. She stated that the proposed amendment would remove the expired moratorium.

Mr. Casagrande commented that it might be difficult to build a medical marijuana facility in Duxbury, and Ms. Massard agreed that it would not fit into the characteristics of the town based on existing state regulations.

Mr. Glennon asked if there would be any harm in leaving the expired moratorium in the Zoning Bylaws, and Ms. Massard replied that there would be no harm but the idea is to clean up the bylaw now and avoid a future wholesale proposal to amend a large number of bylaws that need to be cleaned up.

Mr. Casagrande invited public comment and there was none.

**MOTION:** Mr. Glennon made a motion, and Ms. Ladd Fiorini provided a second, to close the public hearing for a proposed amendment to delete Zoning Bylaws Section 617 "Temporary Moratorium on Medical Marijuana Treatment Centers," which has expired on its own terms.

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

Therefore, the public hearing was closed at 9:45 PM.

**MOTION:** Mr. Glennon made a motion, and Mr. Wadsworth provided a second, to recommend approval of a proposed amendment to delete Zoning Bylaws Section 617 "Temporary Moratorium on Medical Marijuana Treatment Centers," which has expired on its own terms.

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

## PLANNING BOARD FEE HEARING

Mr. Casagrande opened the public hearing at 9:46 PM.

**MOTION:** Mr. Glennon made a motion, and Ms. Ladd Fiorini provided a second, to waive the reading of the public hearing notice and correspondence list for the Planning Board fee hearing.

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

The correspondence list for the record:

- Public hearing notice stamped with Town Clerk and distributed to the Duxbury Free Library on 01/02/18 and published in the Duxbury Clipper on 01/03/18 and 01/10/18.

Ms. Massard explained that the intention of the proposed fee schedule is to streamline Planning Board fees. There are minor increases to required escrow account fund balances based on practice because costs have increased and so that staff does not have to constantly go after the applicant to replenish funds. Also, fees are proposed for types of applications that previously existed without a filing fee. Ms. Massard noted that there is a change to the Approval Not Required (ANR) application fee, so that the applicant will be charged for new lots but not existing lots. She explained that there was some confusion in the Administration that the Board of Selectmen must approve Planning Board fees so they did, but it was later confirmed that Duxbury adopted regulations for the Planning Board to adopt its own fees.

## PLANNING BOARD MINUTES

Date: January 24, 2018

Page 11 of 12

Mr. Glennon clarified that the fee is not a tax and it is not revenue-generating. He also noted that some fees are lowering for special permits in the Aquifer Protection Overlay District. Ms. Massard stated that fee research on other towns was done to make sure these proposed fees would be comparable and they are consistent with, or lower than, similar communities. Mr. Glennon noted that the new fees help the tax base by reducing the burden on taxpayers to cover Town Hall costs.

Ms. Ladd Fiorini pointed out a missing fee on a scale of APOD special permit fees, which was addressed.

Mr. Casagrande invited public comment and there was none.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Glennon provided a second, to close the public hearing for the proposed Planning Board fee schedule.

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

Therefore the public hearing closed at 9:52 PM.

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Glennon provided a second, adopt a new fee schedule as amended for application and escrow account fees for those applications under the Planning Board's purview, including subdivisions, Approval Not Required (ANR) plans, special permits where it is the Special Permit Granting Authority (SPGA), Administrative Site Plan Review under the Zoning Bylaw, Scenic Road applications, and applications for private way name changes, effective immediately.

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

## PLANNING DIRECTOR REPORT

Comprehensive Plan Update: Planning Board members reviewed a draft vision statement for the Town of Duxbury. Ms. Massard reported that this draft statement will be sent for feedback from Master Plan Ambassadors. She noted that draft vision statements for the Housing, Open Space & Recreation, and Historic & Cultural Resources sections are available on the Envision Duxbury tab on the Town of Duxbury web site, and feedback is wanted on those statements also. She stated that MAPC will provide an update at Annual Town Meeting, followed by a workshop at a Planning Board meeting in March. Ms. Ladd Fiorini made a suggested edit to a draft vision statement distributed at the last meeting. Ms. Massard made note of the change to notify MAPC of the feedback.

Annual Town Meeting: Ms. Massard reported that the Board of Selectmen will be reviewing and possibly making recommendations on zoning articles at its meeting next Monday. Mr. Casagrande stated that he would attend that meeting.

## OTHER BUSINESS

Engineering Invoices: Ms. Massard recommended that the Planning Board consider paying a Merrill Engineers invoice #5149 dated 12/18/17 in the amount of \$906.25 re: 232 Surplus Street minus the overtime charged by the consulting engineer for attending a Planning Board meeting. Mr. Glennon suggested that the Planning Board could reject the payment and ask Merrill to resubmit a revised invoice that does not include overtime charges.

**MOTION:** Mr. Glennon made a motion, and Ms. Ladd Fiorini provided a second, to reject Merrill Engineers invoice #5149 dated 12/18/17 in the amount of \$906.25 for services related to 232 Surplus Street, with an invitation for Merrill Engineers to resubmit a revised invoice without charges for overtime.

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

## PLANNING BOARD MINUTES

Date: January 24, 2018

Page 12 of 12

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Wadsworth provided a second, to pay the following Merrill Engineers invoices:

- Invoice #5122 dated December 6, 2017 in the amount of \$2,465.00 for services related to 232 Surplus Street Definitive Subdivision
- Invoice #5148 dated December 18, 2017 in the amount of \$435.00 for services related to LaCoss Road Definitive Subdivision.

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

**MOTION:** Ms. Ladd Fiorini made a motion, and Mr. Wadsworth provided a second, to pay the following Amory Engineers invoices dated December 31, 2017:

- Invoice #14830A in the amount of \$207.00 for services related to Duxbury Yacht Club, Fairway Lane ASPR
- Invoice #14830B in the amount of \$276.00 for services related to Millbrook Station ASPR.

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

## ADJOURNMENT

The Planning Board meeting adjourned at 10:04 PM. The next Planning Board meeting will take place on Wednesday, February 14, 2018 at 7:00 PM at Duxbury Town Hall, Mural Room, 878 Tremont Street.

## MATERIALS REVIEWED

- PB agenda for 01/24/18
- ANR application and plans for 166 & 170 Marshall Street / Garbarino
- Assessor's property card for 166 & 170 Marshall Street
- Public hearing notice for ATM zoning articles 01/24/18
- Citizen Petition and map for re-zoning Island Creek Oysters properties
- Draft MOU Concept for Discussion Purposes
- Assessor's property cards for ICO properties
- Warrant language for Lot Coverage and FAR ATM article
- Warrant language for removing temporary moratorium on medical marijuana facilities ATM article
- Warrant language for solar utilities ATM article
- Public hearing notice for fee hearing 01/24/18 with proposed fee schedule
- "A Vision for the Town of Duxbury" Envision Duxbury draft for discussion
- Amory Engineers invoice #14830A dated 12/31/17 (DYC Pool)
- Amory Engineers invoice #14830B dated 12/31/17 (Millbrook Station)
- Merrill Engineers invoice #5122 dated 12/06/17 (232 Surplus)
- Merrill Engineers invoice #5148 dated 12/18/17 (308 Summer Street)
- Merrill Engineers invoice #5149 dated 12/18/17 (232 Surplus)
- Letter from Rep. J. Cutler to S. Casagrande dated 01/15/18 re: Grant programs spreadsheet

### Distributed at Meeting

- Letter from S. Wilson re: Lot Coverage zoning article

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The mission of the Town of Duxbury is to deliver excellent services to the community in the most fiscally responsible and innovative manner while endeavoring to broaden our sense of community and preserve the unique character of our town.