



Town of Duxbury Massachusetts Planning Board

TOWN CLERK
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DUXBURY, MASS.

Minutes 1/9/19

The Planning Board met on Wednesday, January 9, 2019 at 7:00 PM at the Duxbury Town Hall, 878 Tremont Street, Mural Room, lower level.

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

Absent: Scott Casagrande, Chairman; Jennifer Turcotte; and Ashley MacMillan, Administrative Assistant.

Staff: Valerie Massard, Planning Director.

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

OPEN FORUM / COMMITTEE LIAISON REPORTS

No one from the Planning Board, staff, or the public audience brought anything forward during open forum.

*Due to the timing of the Public Hearing at 7:10 PM, some agenda items were taken out of order during the meeting. These minutes reflect the items in the order they appeared on the agenda.

A.) 7:10 PM – PUBLIC HEARING: ANNUAL TOWN MEETING (ATM) ARTICLE:
Article proposes to correct a Scrivener's Error that changed the original language of Bylaw Section 425.1

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

Vote: 5-0, unanimous.

Ms. Massard explained that during the process of preparing to update the zoning bylaws from the 2018 Town Meetings, a Scrivener's Error has been discovered in the warrant from the 2018 Special Town Meeting that needs to be corrected.

The typo changed the language in Section 425.1 regarding the NB District Lot Dimensions, specifically the "Front Setback", which was changed from its correct measure of 10 feet to an

incorrect measure of 0 feet. Upon thorough review of the Bylaw during the process of adding 2018 Special Town Meeting changes, this Scrivener's Error was discovered and this March 2019 Article seeks to correct it back to its original language.

Mr. Bear clarified that this warrant article does not propose any changes to the Bylaw but rather seeks to correct an unintended change.

Motion: Mr. Glennon made a motion to close the public hearing, and Mr. Wadsworth provided a second.

Vote: 5-0, unanimous.

Motion: Mr. Glennon made a motion to recommend favorably to Town Meeting regarding the warrant article that seeks to correct a Scrivener's Error made to Section 425.1 of the Bylaw, and Ms. Ladd Fiorini provided a second.

Vote: 5-0, unanimous.

B.) 7:10 PM – CONTINUED PUBLIC HEARING: ANNUAL TOWN MEETING

ARTICLE: *Article proposes to create a medical marijuana treatment center overlay district.*

Ms. Massard said that the Planning Board and Staff are still soliciting public comments on the medical marijuana treatment facility overlay district, and that she has received an additional comment via email since the last meeting in December. The commenter, who is a resident in town, suggested examining town land as a potential site for the overlay district, such as the town-owned land on Mayflower Street across from the Police Station.

Ms. Massard mentioned that Town Counsel will be attending the next Planning Board meeting on January 30 and will be available to answer questions regarding the medical marijuana articles.

Mr. Uitti invited public feedback. Mr. Neal Doherty, representing Duxbury FACTS, started by stating that he is concerned about the possibility of a medical marijuana treatment center (MMTC) being located near a children's facility such as a school. The current state law mandates that a MMTC cannot be located within 500 feet of a children's facility, and Mr. Doherty believes this buffer size is inadequate, and suggests changing the language in the ATM article to be 1,000 feet. Mr. Doherty pointed out that many MMTC facilities have open business hours of 7 AM to 7 PM, and said he finds these hours of operation to be odd. Mr. Doherty said that the article does not specify any zoning districts, and would like to open a discussion on which districts would be permissible for a MMTC. Mr. Doherty stated he would like to see a map with potential locations, and Ms. Massard said that will be available on January 30, based on feedback from the Board and the public on the recommendation.

Mr. Uitti reiterated that the purpose of this article is pro-active. If the article proposing to ban medical marijuana does not move forward, and an overlay district is not created to regulate it,

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then a MMTC can potentially open anywhere in town. Mr. Uitti said the Planning Board is trying to determine the best possible locations and welcomes feedback from residents on this issue. Ms. Massard added that the Planning Department has already received a significant amount of public feedback throughout the public hearing process and is still accepting feedback.

Ms. Massard reiterated that there is no possibility of the approval of medical marijuana setting a precedent for recreational marijuana, because the town has banned recreational marijuana in all capacities.

Mr. Bear said the term “places where minors commonly congregate” is confusing the way it is written. Mr. Bear said the Board should consider striking the sentence stating that a MMTC cannot be located “where minors congregate for a structured activity” because he thinks that gives regulators less control over potential locations.

Mr. Bear asked if the definition of a “Host Community Agreement” should be added to the language. Ms. Massard said the term is defined in state law and any mention of it in the local bylaws would make reference to the definition as used by the state.

Mr. Bear asked if there is an appeal period for an SPGA (Special Permit Granting Authority) decision. Ms. Massard answered that any Special Permit would go through the normal appeals process. Mr. Bear asked if there is an appeal process for a Host Agreement and Ms. Massard said there currently is no formal appeal process, however it could be appealed with a lawsuit.

Mr. Wadsworth acknowledged the possibility of the warrant article needing amendments from its original language, and asked if those amendments will be made on Town Meeting floor. Ms. Massard answered that any language changes agreed upon during the public hearing process will be made as amendments on Town Meeting floor.

Ms. Anne Ward, of Huckleberry Lane, said she wanted to second the questions asked by Mr. Doherty, specifically, Ms. Ward asked what zoning districts would be allowed to contain medical marijuana. Ms. Ward also made a request to increase the buffer zone from 500’ to 1000’. Ms. Ward wanted to know who would be setting the standard for air quality impacts and odors emitted from potential MMTC facilities.

Mr. Uitti said that all the questions posed tonight will be relayed to town counsel before the next (Jan. 30) public hearing.

Ms. Lorrie Hall, of Abrams Hill Road, was concerned about the amount of water needed to sustain a medical marijuana facility and consequential pollution. If a MMTC were to be initiated, Ms. Hall suggested monitoring nearby ponds and rivers for water use to ensure the water resources not be harmed by a potential facility. Ms. Hall said she thinks putting a MMTC near a water resource is a bad idea.

Mr. Robert Cronin, of Pill Hill Lane, said he used to be a medic in the military, and that many of his fellow comrades are treated for conditions such as Post Traumatic Stress Disorder (PTSD)

with medical marijuana. Mr. Cronin said he thinks that medical marijuana is being demonized. Mr. Cronin pointed out that there are package stores that sell alcohol in the vicinity of Duxbury schools. Mr. Cronin stated that he believes medical marijuana serves a good purpose for many people.

Mr. Wadsworth, acknowledging Ms. Hall's point about water usage and pollution, suggested that the Water and Sewer Advisory Board also review any potential MMTC proposals.

Motion: Mr. Glennon made a motion to continue the public hearing for the town meeting article regarding a medical marijuana treatment facility overlay district to January 30, 2019 at 7:10 PM, and Mr. Wadsworth provided a second.

Vote: 5-0, unanimous.

C.) REQUEST FOR APPROVAL EXTENSION: 390 Washington Street, Windsor House Inn; *Applicant proposes to extend the Administrative Site Plan Review Decision dated March 3, 2017 for an additional 2 years.*

The owner of the Windsor House (the applicant), Charles Weilbrenner, is seeking to extend the Administrative Site Plan Review (ASPR) approval for 390 Washington Street for an additional 2 years. Ms. Massard stated that this is a matter of business that is permissible for the ASPR decision process. The original decision is dated March 3, 2017. The original approval with conditions was for a building with ten (10) additional guest rooms. The approved plan included: (1.) a site plan for the Windsor House, (2.) construction details for the Windsor House, and (3.) a concept parking plan for the Windsor House.

Mr. Weilbrenner explained that at the time of this ASPR approval, the Windsor House was faced with many other important repairs and renovations that took priority over this new addition.

Mr. Glennon asked what portion of the project has been constructed, out of what was originally permitted. Mr. Weilbrenner responded that nothing of what was approved through this 2017 ASPR decision has been started yet. Mr. Glennon asked if there are any anticipated changes to the plan, and Mr. Weilbrenner said no, it will remain the same plan.

Mr. Glennon acknowledged that during the original approval, the Planning Board made reference to conditions of approval made by the Zoning Board of Appeals (ZBA); and then asked Ms. Massard if the Planning Board needs to follow up on those ZBA conditions. Ms. Massard responded that is a separate issue, and depending on where Mr. Weilbrenner is in the ZBA process, those conditions may or may not need to be reevaluated. Mr. Weilbrenner added that he has spoken to the ZBA about this, and evidently, the ZBA has yet to issue a written decision. Therefore, according to Mr. Weilbrenner, the ZBA will be issuing a written decision which will then be valid for two years after the decision date. Mr. Weilbrenner stated that there will be no changes made to the ZBA proposal.

Mr. Glennon asked that the Planning Board be updated on any future changes made to this plan and/or the ZBA proposal, and Mr. Weilbrenner agreed to do so.

Motion: Mr. Glennon made a motion to approve the extension for the ASPR approval decision of 390 Washington Street for an additional 2 years until March 3, 2021, and Mr. Wadsworth provided a second.

Vote: 5-0, unanimous.

D.) 7:30 PM – Pubic Hearing: Annual Town Meeting Articles; Demolition Delay (609.2 and 609.3) and FEMA Flood Zone Map Changes

Demolition Delay – Section 609.2

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

Vote: 5-0, unanimous.

The article seeks to set an expiration date for a demolition delay permit of 2 years after the permit is issued. It also seeks to make the decision transferrable to another party, in the event that the property is sold during the 2 years.

Demolition Delay – Section 609.3

Ms. Massard said the objective of this article is to increase the demolition delay period from 6 months to 12 months.

Ms. Massard said there was a typo in the original language of the demolition delay section that created some confusion while interpreting the timeline (6 month period) of the bylaw. Ms. Massard distributed copies of comments made by the Chairman, Mr. Scott Casagrande, who was unable to attend this meeting. Mr. Casagrande suggested making the timeline for demolition delay initiate at the time of the decision (that the building is historically significant). Ms. Massard said she would also like to run this idea by town counsel. With the amendment to change the demolition delay period to 12 months, this would mean the 12 month period would start at the time of the decision, and not the public hearing, because the public hearing may be continued to a later date. The language would also be corrected to state that a determination (of historical importance) must be made within 10 business days of the public hearing.

Mr. Glennon said the article should specify the course of action if the board fails to make a determination within the 10 business days.

Mr. Uitti invited the attending members of the Historic Commission, Mr. Terry Vose and Mr. Tag Carpenter, to make comments on the proposed article.

Mr. Tag Carpenter, of Summer Street, said the Historic Commission has been working on this article for 7 years, and appreciates that the Planning Board has taken sponsorship of it. Mr. Carpenter said he thinks that in order for this article to pass this year at town meeting, it needs to be complete and correct before being presented on the floor.

Motion: Mr. Glennon made a motion to continue the public hearing of the two town meeting articles regarding demolition delay to January 30, 2019 at 7:30 PM, and Mr. Wadsworth provided a second.

Vote: 5-0, unanimous.

FEMA Flood Zone Risk Maps

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

Vote: 5-0, unanimous.

Ms. Massard explained that FEMA has made changes to the inland flood zone risk maps (for insurance purposes) in Plymouth County, and this warrant article seeks to adopt the updated versions for Duxbury. Ms. Massard said she believes the updated inland maps utilize more accurate methods (such as LiDAR) of measuring the flood risk.

Ms. Massard said the maps should become effective sometime in July, according to correspondence from FEMA, but the town would need to adopt them beforehand to remain in the flood insurance program. Ms. Massard said that the town staff does not have any objections to the map revisions so far.

Ms. Massard mentioned that there are several links and resources available on the Planning Department page of the town website regarding FEMA and flood insurance.

Ms. Massard reiterated that these map updates do not apply to coastal zones at all.

Motion: Mr. Glennon made a motion to close the public hearing for the town meeting article regarding the FEMA flood risk map updates, and Ms. Ladd Fiorini provided a second.

Vote: 5-0, unanimous.

Motion: Mr. Glennon made a motion to recommend favorably to town meeting the warrant article to adopt the FEMA flood risk map updates, and Mr. Wadsworth provided a second.

Vote: 5-0, unanimous.

E.) OTHER BUSINESS

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MINUTES

Motion: Mr. Wadsworth made a motion to accept the minutes of 11/14/18 and 11/28/18 as amended by Mr. Glennon, and Ms. Ladd Fiorini provided a second. Mr. Wadsworth made a motion to accept the minutes of 12/12/18 as written, and Ms. Ladd Fiorini provided a second.

Vote: 5-0, unanimous for 11/14/18 and 11/28/18, and 4-0-1 for 12/12/18, with Mr. Uitti abstaining because of absence.

ENGINEERING INVOICES

Motion: Ms. Ladd Fiorini made a motion to approve invoice #14997 from Amory Engineers, P.C. in the amount of \$875.00, and Mr. Glennon provided a second.

Vote: 5-0, unanimous.

Motion: Ms. Ladd Fiorini made a motion to approve invoice #6047 from Merrill Engineers, in the amount of \$3,675.00, and Mr. Wadsworth provided a second.

Vote: 5-0, unanimous.

STAFF REPORT

Ms. Massard reported that the Planning Department, with the help of several volunteers (the “Sounding Board”), the Economic Advisory Committee, and a consultant (Harriman Group), has been making progress on the project to improve the Hall’s Corner business district. Ms. Massard said a major focus of this project will be walkability, improving the intersection, and increasing the overall vibrancy of the area.

Ms. Massard said she is currently working with the Metropolitan Area Planning Council (MAPC) to update the town’s GIS zoning maps.

ADJOURNMENT

Motion: Mr. Wadsworth made a motion to adjourn at 8:25 PM, and Ms. Ladd Fiorini provided a second.

Vote: 5-0, unanimous.

The next Planning Board meeting will take place on January 30, 2019 at 7:00 PM at the Duxbury Town Hall, 878 Tremont Street, Mural Room, lower level.

Materials reviewed at the meeting:

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- Public Hearing Notice – Scrivener’s Error ATM Article
- Town Meeting Warrant Article – Scrivener’s Error
- Public Hearing Notice – Medical Marijuana Overlay District ATM Article
- Town Meeting Warrant Article – MMTC Overlay District
- Memo Request from Chuck Weilbrenner for 390 Washington Street (Windsor House)
- Planning Board Meeting Minutes: 11/14/18, 11/28/18, and 12/12/18
- Amory Engineers Invoice #14997
- Merrill Engineers Invoice #6047