



Town of Duxbury Massachusetts Planning Board

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DUXBURY, MASS.

Minutes 02/14/2018

The Planning Board met on Wednesday, February 14, 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, and Jennifer Turcotte.

Absent: David Uitti, Vice Chairman; and George Wadsworth.

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

Mr. Casagrande called the meeting to order at 7:04 PM and requested a moment of silence for the victims of a shooting at a Florida school that day.

The Planning Board recognized Diane for her 12 years of service and thanked her, and wished her well.

OPEN FORUM

No items were brought forward for Open Forum.

CONTINUED PUBLIC HEARING, PROPOSED ZONING AMENDMENT FOR ANNUAL TOWN MEETING 2018: RE-ZONE OF ISLAND CREEK OYSTER PROPERTIES (FORMER BATTELLE LABS) AT 0, 397, 401 AND 405 WASHINGTON STREET (CITIZEN PETITION)

Mr. Casagrande opened the continued public hearing at 7:05 PM. Present for the discussion from Island Creek Oysters, the petitioner, were Mr. Skip Bennett, founder and owner of Island Creek Oysters (ICO), and Ms. Laurie Zapalac of Zapalac Advisors. There was no additional correspondence list for this continued public hearing.

Mr. Casagrande invited Mr. Bennett to make a presentation. Mr. Bennett noted that ICO has come before the Planning Board a couple of times now for its citizen petition to re-zone the ICO property on Washington Street to Neighborhood Business 1 (NB1). He stated that the ICO goal is to keep the property whole as it has been used for the past fifty years.

Mr. Bennett stated that ICO has revised the original plan submitted with the citizen petition after hearing feedback from the Planning Board and the public. The amended plan removes the two homes on Washington Street and land surrounding them from NB1 to keep them as currently zoned, Residential Compatibility (RC). He introduced Ms. Laurie Zapalac, the ICO planning consultant, to provide more information.

Ms. Zapalac provided a Power Point presentation, noting her background in historic preservation and cultural heritage. She stated that a core value of ICO is to be a business that the town can be proud of and they want to consider secondary uses that create a synergy with their core business. She stated that the goal of keeping the two houses on Washington Street as RC is to preserve the external visual appearance.

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Ms. Zapalac provided a brief history of the land going back to the original Clapp Laboratories, noting that its research was surprisingly similar to the work that ICO does, including research on clams and oysters with the intent to "start whole colonies." She stated that Clapp Laboratories benefitted from its direct waterfront location and deep water dock. She stated that the aquaculture work that ICO does is a direct product of Duxbury's heritage. She noted that ICO currently has 48 full-time employees and in 2017 sold 11.5 million oysters.

Ms. Zapalac stated that the vision for the new site is to consider the land's past role and create a vision for its future in a logical way for the town. ICO plans to equal or increase the existing canopy on the property today. ICO plans to remove some asphalt from the property in order to enhance stormwater management. The site encompasses 11 acres with a wide variety of buildings that will be retrofit for ICO use. She noted that over the years Battelle had already physically altered the interiors to all the buildings as lab or office space. She also noted that there is an underwater saltwater distribution system installed by Battelle.

Ms. Zapalac provided some preliminary site plan analysis, noting that it is an ongoing process. She noted that there are fourteen buildings on the site totaling 60,000 square feet. The only building to be razed at this point is the old and unused marine mammal rehabilitation tank built for a specific use years ago. Two new buildings are proposed to be built for a boatshed and a greenhouse to grow algae for feeding baby oysters. Those two buildings would total approximately 1,400 square feet in size. Critical improvements are proposed to three buildings. The former Battelle administration building will be transformed to make it more transparent because right now it is a view blocker. She stated that it is all about connectivity and context to the bay. She stated that ICO wants the property to be a remarkable gathering place that conducts advanced aquaculture research.

Mr. Bennett stated that ICO is seeking Planning Board support for its amended proposal to re-zone most of the property as NB1. Mr. Glennon asked if ICO plans to amend its proposal on Town Meeting floor, and Ms. Massard responded that they would and they may have an Approval Not Required (ANR) plan endorsed as to form, but not for recording by that time to use as the revised zoning map. She stated that the existing four properties are combined into one for zoning purposes, and the pieces of land to be removed would need to conform to zoning requirements for lot size, setbacks and frontage. Mr. Glennon confirmed with Ms. Massard that the Planning Board would be recommending the amended proposal as presented at tonight's meeting via a Power Point presentation.

Ms. Turcotte asked about the ANR plan, and Ms. Massard responded that the lot lines as shown on the sketch do not exist today, and the lines that do exist are nonconforming. Mr. Casagrande asked about the access road off Washington Street to the ICO buildings, and Ms. Massard confirmed that the access will stay and the two house lots and the remaining NB1 land would all meet the required frontage. Mr. Casagrande stated that it appears that there is no dire need to get an ANR plan endorsed, and there is time before Annual Town Meeting to figure out what to do with the two house lots. Mr. Bennett agreed that ICO is trying to figure out what to do. He stated that if ICO's request to re-zone is unsuccessful they may need to sell some parcels in order to meet their debt service. He stated that he hopes to work with the community to find a way to preserve the properties, noting that five or six businesses have reached out to ICO already.

Mr. Bear stated that it is not a usual process to re-zone and then figure out what to do. He asked what would be the effective date if the re-zoning is approved at Annual Town Meeting. Ms. Massard replied that any zoning change is effective on the date voted at Town Meeting. Mr. Bear asked if ICO would need to apply for a special permit with the Zoning Board of Appeals (ZBA) for any site work or change in use, and Ms. Massard responded that they would need to apply for anything other than an aquaculture use which is exempt. They would need to obtain a special permit, for example, for use of the Clapp Building as an office. Mr. Bear asked if the Shore House was last used by Battelle as office space, and Mr. Bennett replied, "Yes." Ms. Zapalac noted that there is underground saltwater piping to that building also. Mr. Bear asked if a gift shop would require a special permit, and Ms. Massard responded that it would require a special permit unless it was for ICO use as aquaculture. Mr. Bear asked what portion of the oysters are farmed by ICO farmers and not collaborative farmers, and Mr. Bennett replied that twenty percent of the oysters are produced directly by ICO farmers. Ms. Massard noted that aquaculture is an exempt use according to Town Counsel and according to the Massachusetts Farm Bureau.

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Mr. Bear asked if any other construction would be proposed, and Ms. Massard responded that ICO would be subject to Administrative Site Plan (ASPR) approval for bulk and massing even if it were an agricultural use, and assuming the project is over 800 square feet in size it would also be subject to a special permit. She noted that ICO is not proposing to change the exterior of any buildings and would like to master plan the project as one agricultural use because they are primarily an aquaculture business. Any non-exempt use would require a special permit. Mr. Bennett added that ICO would not have a right to put in a restaurant at the Shore House, for example. They would have to apply for ASPR and a special permit.

Mr. Bear asked what would happen if ICO sold off a lot in the proposed NB1 area. Ms. Massard responded that ICO would need to preserve its frontage and they are trying to keep the NB1 area as one parcel without carving it up. Mr. Casagrande commented that there would not be much opportunity to carve off land due to frontage issues.

Mr. Bear asked about potential use of one of the buildings as a crew house, and Mr. Bennett responded that one idea is to use a building as staff housing for the Duxbury Bay Maritime School. Ms. Zapalac added that they are considering the possibility of using the caretaker house and the Hillman House as potential crew houses.

Mr. Casagrande invited public comment. Ms. Lorrie Hall of 175 Abrams Hill Road stated that she has not heard any mention tonight of keeping the two houses along Washington Street in a Local Historic District as ICO president Mr. Chris Sherman had promised at the initial public hearing, so that exteriors would not change. Ms. Zapalac responded that the Local Historic District is still on the table but ICO has decided to separate it from the re-zoning petition to avoid confusion. Mr. Bennett added that if the property is re-zoned they will determine a course of action, but they do not want to jeopardize the property value if the property re-zone does not pass. Ms. Massard explained further that she had proposed the Memorandum of Understanding but now ICO has done one better by removing the two dwellings from the NB1 district. Now ICO can remain as one campus. A deed restriction to permanently preserve the historic homes on Washington Street would possibly come later. Mr. Glennon stated that it was a good idea for ICO to not be encumbered by any restrictions for Annual Town Meeting, and Mr. Casagrande agreed. Ms. Zapalac added that it allows ICO time to do its due diligence and figure out if other revenue sources allow the historic preservation to happen. Ms. Massard stated that Historical Commission members would be involved in any historic preservation process, and the interiors of those historic structures are not economically viable to retrofit back to residences now.

Ms. Nancy Melia of 12 Elderberry Lane asked about the tax revenue of this valuable, important property. She noted that ICO could be a tax generator for the Town of Duxbury depending on how it is assessed. Ms. Zapalac stated that the tax burden is approximately \$1.3 million for the entire 11 acres, and it is significant that ICO will be paying taxes and adding to the economic diversity of the town. Mr. Bear noted that tax rates are the same for businesses and residences. Mr. Casagrande pointed out that until recently the Town of Duxbury was receiving no tax revenue from Battelle.

Mr. Peter Hoover of 17 Winsor Street introduced himself and his wife, Sue, and stated that they are abutters to ICO. Mr. Hoover stated that he and his wife are pleased with what ICO has done so far, and ICO is the best possible use they can imagine for that site especially compared to the Diamond Sinacori proposal. He stated that they are comfortable with the proposal for an NB1 district on the site and they understand that the ZBA will protect the town from undesirable uses.

Mr. Casagrande asked if the Planning Board should keep the public hearing open until the ANR has been endorsed, and Ms. Massard recommended that the Planning Board get its recommendation to the Town Moderator.

MOTION: Mr. Glennon made a motion, and Ms. Turcotte provided a second, to close the public hearing for an article for Annual Town Meeting 2018 submitted by Citizen Petition to see if the town will vote to amend the Duxbury Zoning Map as part of the Protective Zoning Bylaws of the Town of Duxbury, to rezone parcels of land at 0, 397, 401 and 405 Washington Street (Assessor's ID 119-405-148, 119-147-405, 119-147-000, and 119-146-405).

VOTE: The motion carried unanimously, 5-0.

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Therefore, the public hearing closed at 7:56 PM.

MOTION: Mr. Glennon made a motion, and Mr. Bear provided a second, that the Planning Board recommend approval of an Annual Town Meeting zoning article to amend the Duxbury Zoning Map as part of the Protective Zoning Bylaws of the Town of Duxbury, to rezone parcels of land at 0, 397, 401 and 405 Washington Street (Assessor's ID 119-405-148, 119-147-405, 119-147-000, and 119-146-405), owned by Ditch Digger LLC, 296 Parks Street, Duxbury, MA 02332 and formerly known as Battelle Laboratories, Inc., from Residential Compatibility (RC) to Neighborhood Business 1 (NB1), as shown on a plan on file at the Town Clerk's Office, but excluding two homes fronting along Washington Street as presented to the Planning Board on February 14, 2018.

VOTE: The motion carried unanimously, 5-0.

PUBLIC HEARING, PROPOSED ZONING AMENDMENTS FOR ANNUAL TOWN MEETING 2018: TRANSFERABILITY OF DETERMINATION FOR HISTORICALLY SIGNIFICANT BUILDINGS AND DEMOLITION DELAY PERIOD CHANGE FROM SIX MONTHS TO TWELVE MONTHS (HISTORICAL COMMISSION)

Mr. Casagrande opened the public hearings at 7:57 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, both of which are on file at the Planning Department.

VOTE: The motion carried unanimously, 5-0.

TRANSFERABILITY OF HISTORICAL COMMISSION DETERMINATION

Present for the discussion from the Historical Commission were Mr. Terry Vose, chair, and Mr. Tag Carpenter, vice-chair. Correspondence list for the record:

- Public hearing notice stamped with Town Clerk on 01/30/18; 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 01/31/18 and 02/07/18
- Article warrant language stamped with Town Clerk on 01/31/18
- Emails between B. Saint Andre and V. Massard et al dated 11/27/17 – 02/06/18 re: Upcoming public hearing – demolition delay – question on transferability language in the warrant (with attachments).

Mr. Tag Carpenter read the proposed warrant article language which states that, "A decision by the Commission is made in relation to the party filing the application only, is nontransferable, and expires two years from the date of the decision. If demolition has not occurred prior to the expiration of the decision, a new application for a demolition permit must be filed prior to any subsequent demolition." He noted that no matter if the demolition delay is six or twelve months, the Historical Commission's determination starts the delay.

Mr. Carpenter acknowledged that there are concerns that the Historical Commission is going out of bounds on this proposal. He stated that they have researched all 351 towns in the Commonwealth of Massachusetts and eleven have some form of restriction on transferability. He listed the eleven towns. He stated that he asked those towns if they are being peppered by lawsuits on this matter and have heard back from four or five of the towns that there have been no lawsuits. In the Town of Lexington the transferability was changed via a Town Hall policy change. He stated that a key lesson learned was that it is up to the Building Commissioner's discretion and the policy could be changed without Town Meeting because it is a matter of interpretation and not legislation.

Mr. Carpenter stated that the Demolition Delay bylaw has been in effect since 1998 and the rules and procedures were not well defined in the beginning, but in the last few years the Historical Commission has figured out how to make it work. He stated that the bylaw has two parts: 1) identify resources; and 2) interact with community regarding buildings to be demolished and work with the owner to find alternatives to demolition. The Zoning Bylaws have been interpreted without an exclusion for transferability so now the public engagement can only

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happen once. The Historical Commission would like to ask the town to decide, and the current bylaw prevents preservation of homes.

Mr. Glennon stated that "Legislation that is open to interpretation is ripe for litigation." He asked about the key phrase that might be open for interpretation, and Mr. Carpenter responded that the phrase, "The applicant must be the owner" is being interpreted that the demolition delay determination is not transferable.

Mr. Glennon stated that under the proposed amendment the Town of Duxbury would require a new owner of a property that has undergone the demolition delay process to apply for another demolition delay permit. He asked if this is the case in other communities. Mr. Carpenter stated that in Duxbury it is interpreted differently than some other towns. Ms. Ladd Fiorini asked if any other town specifically has a non-transferability clause in its demolition delay bylaw, and Mr. Carpenter replied, "Yes, to ensure that any demolition requires a review by the Historical Commission." Ms. Ladd Fiorini stated that it is not the same thing to her. Mr. Casagrande noted that other towns may have different requirements for what constitutes historic significance.

Ms. Massard noted that the Planning Board's published guidelines and ongoing requests are that the Historical Commission provide background information in September through November so that they can understand the context for making a recommendation on zoning, and the Planning Board held a Demolition Delay Bylaw workshop in December. She noted that language is needed regarding the intent of the bylaw, according to Town Counsel. She stated that if the Historic Commission had provided documentation months ago the Planning Board could have vetted the proposed language by now. She stated that at this point the Planning Board is not comfortable with making a recommendation without understanding other parts of other towns' similar bylaws. Mr. Carpenter thanked the Planning Board for its constructive feedback, noting that other towns almost always follow Commonwealth guidelines for demolition delay. Ms. Massard noted that intent sections vary from town to town and that Town Counsel's issues regarding intent were raised to the Historical Commission in December.

Mr. Glennon stated that while nobody is against historic preservation, the language needs to be defensible, and the Planning Board would rather avoid grey areas that might be open to interpretation. He noted that the intent generally lays out a statement of purpose. He stated that he is not sure the Historical Commission has resolved areas that might be challengeable. Mr. Carpenter stated that the prior Town Counsel worked on language and it is not complex. He stated that the intent section is pretty much boilerplate, and he is not sure where the perception of risk is.

Mr. Casagrande stated that he has raised the issue before: If the demolition delay is on a structure, what about the structure changes with a new owner? Can the Historical Commission say that a structure that was deemed not historically significant now is? Mr. Carpenter responded that the purpose is to identify alternatives with the new owner that were already explored with the previous owner. Mr. Casagrande stated that he does not see the point. Mr. Carpenter stated that the question is whether a determination that was applicable to one owner is applicable to the next owner, and the interpretation is up to the Building Commissioner. He stated that there may be a case where there is new information available but no process of preserving the structure.

Mr. Bear stated that the nontransferability of a demolition delay permit might be a hard sell at Town Meeting. He stated that if this amendment fails, it might put the proposed demolition delay change from six months to twelve months which immediately follows in jeopardy. Ms. Turcotte agreed that the timeline change alone may be more tolerable to voters at Town Meeting. Mr. Bear suggested that the Historical Commission consider just the delay period for this year.

Mr. Carpenter stated that situations are happening increasingly and it is weakening the bylaw. He stated that many times the Historical Commission reviews a property where the owner has died so there is no opportunity for reconsideration of demolition. He stated that 99 percent of demolition applications are approved by the Historical Commission, and very few delays are imposed.

Mr. Casagrande invited public input. Ms. Susannah Sheehan of 122 Powder Point Avenue corrected the date of the Demolition Delay Bylaw adoption.

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Mr. Fernando Guitart of 14 Powder Point Avenue suggested that there may be a difference between transferability and expiration date. He noted that currently demolition delay never expires. He asked if the Historical Commission has any thoughts on changing the expiration date because that is what caused the demolition of three properties already.

Mr. Bear suggested that it would only take crossing out a few words to make a key change in the proposed language that might pass at Town Meeting. Mr. Casagrande noted that it is more difficult to add language from Town Meeting floor. Ms. Ladd Fiorini stated that adding a two-year expiration date to the Demolition Delay bylaw is important and she believes that Town Meeting would approve it. She stated that the nontransferability language is complicated and may not pass at Town Meeting without a lot of back-up information. She stated that the Planning Board wants to help the Historical Commission find a way to succeed. Mr. Carpenter stated that if the proposal lacks background information at least the conversation has started and that they do not want to separate the two issues and that Town Meeting should have the opportunity to vote. Mr. Casagrande agreed that Ms. Ladd Fiorini's suggestion might be a good compromise.

MOTION: Ms. Ladd Fiorini made a motion, and Ms. Turcotte provided a second, to close the public hearing for an amendment proposed by the Historical Commission to the Duxbury Protective Bylaw regarding transferability of determination for historically significant buildings.

VOTE: The motion carried unanimously, 5-0.

Therefore the public hearing closed at 8:39 PM.

MOTION: Ms. Turcotte made a motion, and Mr. Bear provided a second, to recommend disapproval of an amendment proposed by the Historical Commission to the Duxbury Protective Bylaw Article 600 – Special Regulations, Section 609.2, “Demolition of Historically Significant Buildings - Definitions,” in order to add a term of expiration for determinations and to add language addressing transferability of a determination made by the Commission.

DISCUSSION: Mr. Glennon stated that he had hoped that the Historical Commission would have entertained a bifurcation of the proposed language in order to remove the non-transferability clause.

VOTE: The motion carried unanimously, 5-0.

DEMOLITION DELAY PERIOD CHANGE FROM SIX MONTHS TO TWELVE MONTHS

Present for the discussion from the Historical Commission were Mr. Terry Vose, chair, and Mr. Tag Carpenter, vice-chair. Correspondence list for the record:

- Fax from T. Vose to N. O'Connor dated 11/10/17
- Email from V. Massard to RT Carpenter et al dated 12/01/17 re: Upcoming workshop (with attachment)
- Memorandum from V. Massard to R. Read et al dated 12/01/17 re: Demolition Delay Modification
- Emails between V. Massard and RT Carpenter et al dated 12/01/17 - 12/07/17 re: Demo delay duration stats – corrected
- Email from RT Carpenter to R. Read et al dated 12/07/17 re: Demolition Delay Warrant Article Amendment
- Draft warrant language for PB meeting of 12/13/17
- Draft PB minutes of 12/13/17 (Demolition Delay Zoning Workshop)
- Email from V. Massard to RT Carpenter et al dated 12/18/17 re: Demolition Delay
- Emails between D. Grant and RT Carpenter et al dated 12/20/17 – 12/21/17 re: Demo Delay PB public hearing
- Emails between A. Evans and V. Massard et al dated 01/25/18 re: Public Hearing Notice
- Public hearing notice stamped with Town Clerk on 01/30/18; 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 01/31/18 and 02/07/18
- Article warrant language stamped with Town Clerk on 01/31/18
- “Demo Bylaws Under Review,” Duxbury Clipper article dated 01/31/18
- Memorandum from J. Lampert to PB dated 02/12/18 re: ATM Article 48
- Memorandum from V. Massard to PB/Historical Commission et al dated 02/12/18 re: Demolition Delay Modification.

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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.

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Mr. Vose spoke on behalf of the proposed article to change the demolition delay from six months to twelve months. He stated that 155 towns in the Commonwealth have a demolition delay bylaw and 53 of those towns have a delay of 12 to 24 months. He stated that in Duxbury one or two houses per year have a demolition delay, and twenty percent of the homes are 75 years old or older, the threshold for a demolition delay hearing. Mr. Vose stated that Mr. Chris Skelly who staffs the office of the Massachusetts Historical Commission has deemed the six-month demolition delay as a "waste of time." To be more effective the demolition delay must be a minimum of twelve months. He asked for the Planning Board's support of this proposed Zoning Bylaw amendment.

Mr. Casagrande asked how many demolition delay hearings the Historical Commission sees per year, and Mr. Vose replied that they review approximately 30 applications per year and most of those are deemed not historically significant. Of those five per year that are deemed historically significant, one or two houses per year are demolished under the demolition delay bylaw. Mr. Carpenter added that attendance from abutting property owners at demolition delay hearings is sparse. Mr. Bear noted that Duxbury has a disproportionately high number of historic homes compared to other towns in Massachusetts.

Mr. Casagrande invited public input and there was none.

MOTION: Mr. Glennon made a motion, and Ms. Turcotte provided a second, to close the public hearing for an amendment proposed by the Historical Commission to the Duxbury Protective Bylaw regarding a change in the demolition delay period from six to twelve months.

VOTE: The motion carried unanimously, 5-0.

Therefore the public hearing closed at 8:50 PM.

MOTION: Ms. Turcotte made a motion, Mr. Glennon and provided a second, to recommend approval of an amendment proposed by the Historical Commission to the Duxbury Protective Bylaw Article 600 – Special Regulations, Section 609.3, "Demolition of Historically Significant Buildings - Procedures," in order to change the demolition delay period from six to twelve months.

VOTE: The motion carried unanimously, 5-0.

ZBA REFERRAL, SPECIAL PERMIT: 191 WASHINGTON STREET / ROSS (C/O O'CONNELL)

Mr. Bear recused himself from the discussion and sat with the audience. Other Planning Board members reviewed the special permit application and materials provided by the Zoning Board of Appeals (ZBA) for this proposal to construct an extension to a pre-existing nonconforming structure within the prescribed setbacks. They also reviewed email correspondence from Ms. Massard to the applicant requesting legal documentation providing evidence that the proposed extension is on land that is owned by the petitioner, along with deeds and a recorded plan for the property.

Ms. Massard stated that the existing garage is represented as being partially located on an easement of the Town of Duxbury, and there is no evidence to support that there is such an easement. Ms. Massard has met with the Assessor and she provided background, noting that the road was laid out in the 1800s as a way to the ocean. Shipyard Lane was laid out in the 1900s, and the lane in back was not incorporated in the layout. The issue is whether the applicants own the land or not. She reported that the applicant has spoken with the Building Commissioner, Mr. Scott Lambiase, and the Town Assessor has also been trying to resolve this issue for a number of years. The applicants have not responded other than to say that they are looking into the matter. Ms. Massard stated that it is the applicant's burden to show that the applicant owns the land.

Mr. Casagrande referenced the recorded plan from 1893 showing what is now known as Shipyard Lane, and Ms. Massard stated that there is no record of the Town of Duxbury acquiring the lane that runs behind the houses. The site plan submitted with the ZBA application appears to show an encroachment even if it is an easement.

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Ms. Massard stated that it is possible that there is an error in the site plan labelling the concrete bound as a corner bound owned by the applicant but there is no evidence of this ownership in the deed, and so the applicant has been asked to provide the missing deed so that Assessor's records can also be adjusted.

Mr. Glennon noted other issues with the special permit application:

- The proposed project appears to be a raze and rebuild rather than an expansion
- There appears to be a massing issue with the height and width of the proposed structure
- The proposed structure appears to be in close proximity of the abutting property
- The proposed project may be considered more detrimental to the surrounding neighborhood.

Mr. Casagrande agreed that there are a number of issues to review.

MOTION: Mr. Glennon made a motion, and Ms. Ladd Fiorini provided a second, to recommend disapproval to the Zoning Board of Appeals for Special Permit #2018-01, 191 Washington Street / Ross (O'Connell) unless and until the applicant can provide proof of ownership for the "easement" shown on the plan submitted with the application, and also noting the following issues for Zoning Board of Appeals consideration:

- The proposed project appears to be a raze and rebuild rather than an expansion
- There appears to be a massing issue with the height and width of the proposed structure
- The proposed structure appears to be in close proximity of the abutting property
- The proposed project may be considered more detrimental to the surrounding neighborhood.

VOTE: The motion carried unanimously, 5-0.

PLANNING DIRECTOR REPORT – PROJECT UPDATES

Ms. Massard noted that she is working on a Climate Resiliency Plan and the Hazard Mitigation Plan with the Metropolitan Area Planning Council (MAPC). She reported that there will be no Comprehensive Plan presentation at Annual Town Meeting due to the number of proposed articles and expected discussion on those articles. She offered to make a brief presentation instead, and stated that the MAPC, who also serve as the Comprehensive Plan consultants, will have an information table in the entry hall on the first day of Town Meeting. Mr. Glennon stated that it is important to show residents that the Planning Board is a good steward of the funds allocated at previous Town Meetings.

Ms. Massard reported that she had presented at a community forum on the marijuana articles for Annual Town meeting and there was interesting debate. She stated that there may be three or four presentations on Saturday alone.

Ms. Massard stated that she had emailed the final Town Meeting warrant to the Planning Board earlier that day, and there are fifty articles. Zoning articles are split between earlier and later during Town Meeting, which is expected to run into the week.

GOVERNMENT STUDY COMMITTEE'S WARRANT ARTICLE: PLANNING DIRECTOR REPORTING

Ms. Massard stated that Mr. Alex Chin from the Government Study Committee (GSC) was not able to be present due to family illness. She referenced the GSC's report dated November 2017 that addresses the Planning Director reporting issue. She stated that this has been an issue for many years. One question for Annual Town Meeting 2018 is a proposal for the Planning Director to report to Town Manager rather than the Planning Board. She noted that the GSC had technical assistance from a state advisory board that made recommendations through a Community Compact grant.

Mr. Casagrande stated that because Mr. Wadsworth could not be present tonight but wanted to be part of the discussion, this topic will also go on the next Planning Board agenda. He stated that before Ms. Massard became

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Planning Director there was an issue on Planning Director reporting, and the GSC has done its research and made recommendations. Mr. Casagrande stated that he has supported this proposal from the beginning, and the more he has learned the more he supports the Planning Director reporting to the Town Manager because the position's duties go way beyond the Planning Board. He stated that the Planning Director's duties are broader than the duties of the Library Director or Deputy Assessor, positions that also report to elected boards. He noted that the Town Manager, Mr. René Read, is reasonable to work with and there is a lot going on that the Planning Board does not see.

Ms. Ladd Fiorini asked if the topic is discussed in the GSC report which was distributed to the Planning Board at tonight's meeting, and Ms. Massard responded that there is also state research. She stated that in the majority of towns comparable in size to Duxbury the Planning Director position reports to Town Manager, and she also found similar results in doing her own research with other Planning Directors. Ms. Ladd Fiorini noted that the Planning Board has not seen the research Ms. Massard is referencing. Ms. Massard offered to provide Planning Board members with the study done by the state agency. She stated that the GSC did hundreds of interviews and put a lot of thought into its recommendation. She noted that she is not representing the GSC.

Mr. Bear stated that he is not a supporter of the Planning Director position reporting to the Town Manager. He stated that the Town Manager / Board of Selectmen and the Planning Board appoint the Planning Director together and that does not need to change. He noted that the Planning Board was the first elected board from the beginning and the Planning Board is the closest legislative means to what happens to our land. He cautioned that this change may expose the town to having the Board of Selectmen much closer to regulating what happens to land. He provided examples of recent zoning controversies, including two dwellings per lot and the Memorandum of Understanding on the Battelle Land, noting that those issues may not have been resolved the same way with the Board of Selectmen's influence.

Ms. Massard stated that she is already reporting to the Board of Selectmen, Town Manager, and Planning Board, which is quite difficult and a burden on her. Mr. Bear stated that he is not sure that is the case, because currently Ms. Massard works on her job priorities with the Planning Board and interacts with other departments. Ms. Massard offered to provide the Planning Board with her job description if needed, and stated that this issue has been ongoing and was identified prior to her hiring.

Mr. Casagrande noted that the Finance Committee is also questioning who the Planning Director reports to, and Ms. Massard stated that this existing arrangement is unusual. Mr. Casagrande stated that if the Planning Board sees something that they would like to be addressed, there is no reason the Planning Director would not support the Planning Board. Ms. Massard added that this change would allow her to interact with other departments on an equal basis. She stated that she has been attending Department Head meetings at Town Hall to convey the Planning Board's concerns on her own, and the majority of Planning Directors report to Town Manager instead. Mr. Bear noted that a change in reporting would not change that practice.

Mr. Bear stated that the issue is about separation, noting an example of the Board of Selectmen choosing not to support the Planning Board's desire to appeal a decision. Ms. Massard stated that a change in reporting would not change her role in a similar process. Mr. Bear stated that it may put pressure on the Planning Director to do what the Town Manager and Board of Selectmen want her to do. Mr. Casagrande stated that even if the Town Manager has a different opinion than the Planning Board, it does the Planning Director no good to not support the Planning Board. Ms. Massard noted that the Planning Director job description would not change if the warrant article passes. Mr. Casagrande continued the discussion to the next Planning Board meeting.

OTHER BUSINESS

Engineering Invoices:

MOTION: Ms. Turcotte made a motion, and Mr. Bear provided a second, to pay Environmental Partners invoice #1117816 dated January 11, 2018 in the amount of \$1,500.00 for services related to 232 Surplus Street Definitive Subdivision.

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DISCUSSION: Ms. Ladd Fiorini noted that no report was submitted with the invoice and no breakdown of work hours was submitted. Ms. Massard stated that Mr. Ryan Trahan of Environmental Partners did a simple water pressure test and the Planning Board received two reports from him during the public hearing process. Mr. Casagrande stated that in this case it was a flat fee to perform the work. Ms. Massard confirmed that Environmental Partners was engaged by the Planning Department on behalf of the Water Department. Mr. Casagrande asked Ms. Massard to let the firm know that next time they will need to submit more back-up with their invoices.

VOTE: The motion carried unanimously, 5-0.

MOTION: Ms. Turcotte made a motion, and Ms. Ladd Fiorini provided a second, to pay Merrill Engineers Invoice #5149 dated December 18, 2017 in the amount of \$725.00 for services related to 232 Surplus Street Definitive Subdivision.

DISCUSSION: Mr. Bear thanked staff for following up to make sure Merrill Engineers resubmitted an invoice without overtime charges.

VOTE: The motion carried unanimously, 5-0.

Meeting Minutes:

MOTION: Ms. Ladd Fiorini made a motion, and Mr. Glennon provided a second, to approve meeting minutes of December 13, 2017 and January 10, 2018 as amended.

VOTE: The motion carried 4-0-1, with Ms. Turcotte abstaining.

Building Permit Question: Mr. Glennon asked for clarification on a building permit for a roof-mounted solar installation in the Construction Cost Estimates for January 2018 and Ms. Massard offered to follow up.

ADJOURNMENT

The Planning Board meeting adjourned at 9:40 PM. The next Planning Board meeting will take place on Wednesday, February 28, 2018 at 7:00 PM at Duxbury Town Hall, Mural Room, 878 Tremont Street.

MATERIALS REVIEWED

- PB agenda for 02/14/18
- Public hearing notice for ATM zoning articles 02/14/18
- Proposed language for Demolition Delay Transferability ATM warrant article, stamped with Town Clerk on 01/31/18
- Emails between B. Saint Andre and V. Massard dated 11/27/17 – 02/08/18 re: Upcoming public hearing – demolition delay – question on transferability language in the warrant
- Proposed language for Demolition Delay amendment from 6 to 12 months, stamped with Town Clerk on 01/31/18
- ZBA special permit application and materials for 191 Washington Street / Ross
- Assessor's property card for 191 Washington Street
- Email from V. Massard to P. O'Coarch dated 02/06/18 re: 191 Washington Street – Ross Petition to ZBA (with attachments)
- Planning Board Articles of Interest ATM 2018 spreadsheet dated 02/07/18
- Draft ATM 2018 warrant article 23 – Amend General Bylaws – Change the Appointing Authority of the Town Planner from the Planning Board to the Town Manager
- Environmental Partners cover letter and invoice #1117816 dated 01/11/18 re: Surplus Street
- Merrill Engineers cover letter and invoice #5149 dated 12/29/17 re: 232 Surplus Street
- PB minutes of 12/13/17
- PB minutes of 01/10/18
- ZBA decision #2017-09 for 668 Tremont Street / Duxbury Fire Department
- Construction Cost Estimates for January 2018

Distributed at Meeting

- ZBL Section 421.3 (NB1 Uses and Structures Permitted Subject to Special Permit and Site Plan Requirement
- Memorandum from V. Massard to PB/Historical Commission et al dated 02/12/18 re: Demolition Delay Modification
- Memorandum from J. Lampert to the Duxbury Planning Board dated 02/10/18 re: ATM Article 48
- Government Study Advisory / Town of Duxbury dated November 2017

878 Tremont Street, Duxbury, MA 02332; Telephone: 781-934-1100 x 5476; www.town.duxbury.ma.us/planning