



Town of Duxbury Massachusetts

Planning Board

TOWN CLERK
2020 MAR 12 AM 9:35
DUXBURY, MASS.

Minutes 2/26/20

The Planning Board met on February 26, 2020 at 7:15 PM at the Duxbury Town Hall, 878 Tremont Street, Mural Room, lower level.

Present: Scott Casagrande, Chairman; Brian Glennon II, Vice-Chairman; David Uitti, Clerk; and George Wadsworth.

Absent: Jennifer Turcotte, Cynthia Ladd Fiorini, and John Bear.

Staff: Valerie Massard, Planning Director and Emily Hadley, Administrative Assistant.

Mr. Casagrande called the meeting to order at 7:20 PM.

OPEN FORUM

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

PUBLIC HEARING: 2020 ANNUAL TOWN MEETING ARTICLE; CITIZEN'S PETITION (ARTICLE 22)

Motion: Mr. Glennon made a motion to open the public hearing. Mr. Uitti provided a second.

Vote: 4-0, unanimous.

The public hearing was opened at 7:21 PM.

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

Vote: 4-0, unanimous.

Mr. Casagrande said that the citizen's petitioned article is to amend section 905.2 of the zoning bylaws and states that applicants should have to provide notification to abutters for building permits on projects that are more than 1,000 square feet in size.

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Ms. Massard reminded the Board of the policy they adopted in 2016 for citizen petitioned or committee-introduced zoning amendments. She said that the petitioner did not follow the guidelines presented in that policy.

The petitioner, Mr. Richard Brennen, 100 Myrtle Street, said that there is currently no policy in place that notifies an abutter of a residential building permit. He said that the Town comes out with a monthly report of building permits with cost estimates and minimal details of the work being permitted, which he says unfairly favors developer's interest rather than abutters.

Mr. Brennen said that it is interesting to note that abutters have a 30 day window to file an appeal of a permit, which is costly and time consuming, but most abutters miss this 30 day window because they are not aware of the work being proposed. He said that abutters can get information if they go to the Town's Building Department and ask the right questions.

Mr. Brennen said that in the past, he was not informed of the North Street project that was permitted next to his house and the developer failed to identify his drinking water well. He said that potential issues that could be avoided if abutters were notified before building starts are potential drainage issues, opening up of wind tunnels, infringement of wetlands and vernal pools. He said that property owners have a right to improve their property, and this article would only add a requirement for a timely notification to abutters. He said there would be no cost to the Town and postage would be the only additional cost to the applicant.

Mr. Glennon asked if the trigger for the abutter notification is 1,000 square feet or more regardless of zoning and Mr. Brennen said yes. Mr. Brennen explained that he proposed the idea last year but with a monetary trigger for abutter notification, but he was asked to withdraw the article. He said that he chose 1,000 square feet this year because a smaller project will not likely not infringe on a neighbor's property.

Mr. Glennon said that the idea is straight-forward. Mr. Casagrande noted that Mr. Brennen mentioned developers a lot. Mr. Casagrande said that the developers at the North Street project took advantage of a loophole in the bylaw that has since been removed, so there should not be any more developments like that in the future.

Mr. Casagrande said his concern is that if there is a personal issue between neighbors, it could result in someone trying to stop work that is allowed by right.

Mr. Glennon said that abutters already have the right to request zoning enforcement within the 30 days, so the notice would not grant additional rights that were not available to them before. He said that this notification would confirm that abutters received notice and would make the 30 day deadline clearer.

Mr. Casagrande said that large developments have to go before several Boards before they are approved, and abutters are notified as a part of that process. Mr. Casagrande said that there is a

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30 day appeal period, but if there is a zoning violation, there is a longer time frame during which action can be taken.

Mr. Uitti asked if building has to stop if zoning enforcement is requested within the 30 days. Ms. Massard said that the builders have the right to continue the work while the appeal is being reviewed. Mr. Uitti said that he does not understand why this tool would be useful if building does not have to be stopped when zoning enforcement is requested within the appropriate time frame.

Mr. Casagrande said that residents of Duxbury do not have view rights unless they are deeded.

Mr. Brennen said that he understands the Board's concerns about the proposed notification, but he believes it could prevent a lot of problems.

Mr. Wadsworth said that he used to be on a government study committee and they discussed the idea of an abutter notification for residential building permits. The committee thought that it was a good idea and found that the Town of Wellesley had implemented that requirement. He said that the requirements for the mailed notices needs to be more clearly defined and suggested adding a requirement that the notices be sent by certified mail. Mr. Wadsworth said that he thinks an abutter notification is a good idea and he notifies his neighbors before doing significant work to his property.

Mr. Casagrande said that Duxbury has fairly sizable setbacks, so often work done to a property does not significantly affect abutters.

Mr. Glennon asked Ms. Massard if DRT has met to discuss the article and if they had any issues with it. Ms. Massard said that when Mr. Brennen had withdrawn the article last year, he had agreed to work through problems with the article with staff and that did not occur. Mr. Brennen said that he was working with the Town Manager and was told Town Counsel would work with staff to fix the issues, but this was delayed until right before he had to submit the article.

Ms. Massard said that the article does not express who would pay for the process. She said that the Town has to generate a certified abutter's list. She said that staff has not had time to work out the details of the process.

Mr. Glennon asked Mr. Brennen if the language used by towns who already have this requirement is similar and the same length. Mr. Brennen said that the towns he looked at had the requirement discussed in one sentence.

Mr. Casagrande said that if the applicant does not provide an abutter's list, it would fall on the Town to verify the abutters. Mr. Wadsworth said that certified mail would provide verification of the abutters. Mr. Brennen said that the information is readily available at the Assessor's office at Town Hall, but he could not find it on the Town's website.

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Mr. Glennon said that it makes sense that neighbors are notified of what is happening in the neighborhood and he sees the value in a written abutters notice, but the article would have to be very specific in the process and there needs to be more detail in how it will be applied.

Mr. Uitti said that he sees three process issues with the proposed article: who decides who constitutes an abutter, the method of notification, and what triggers the building permit over 1,000 square feet.

Mr. Casagrande said that the Planning Board will be working on the Zoning Bylaw a lot in the coming years, so the Board would be happy to bring the proposed requirement up to Town Counsel when it comes up in their review of the Bylaw.

Mr. Brennen said that he would like to see if the article passes at Town Meeting rather than waiting any longer. Mr. Uitti said that if the article gets voted down at Town Meeting, Mr. Brennen would have to wait another two years to bring it forward again. Ms. Sally Wilson, 120 Bay Road, said that the article could be brought back next year if a majority of the Planning Board votes upon it.

Mr. Wadsworth suggested that the article could require the applicant to put a small legal notice about their work in the local newspaper to notify abutters, which would be simpler than mailing individual letters.

Ms. Kathy Palmer, Powder Point Ave, said that she thinks the abutter notification is a nice idea and encouraged the Board to do something similar in the future. Ms. Palmer said that it is a common courtesy that could lead to fruitful conversation at Town Meeting.

Motion: Mr. Glennon made a motion to close the public hearing. Mr. Uitti provided a second.

Vote: 4-0, unanimous.

The public hearing was closed at 8:01 PM.

Mr. Glennon said that he likes the idea and thinks the Board should do this in some form in the future, unless the article is changed on the Town Meeting floor.

Ms. Palmer said that she came to the meeting because she heard article 26 would be indefinitely postponed and she wanted to make sure that was the case. Mr. Casagrande said that is the direction it is headed and it will be discussed later in the meeting.

Motion: Mr. Glennon made a motion to recommend favorably to Annual Town Meeting article 22 to amend the Protective Bylaw Article 905 Plot Plan Accompanying Application - Section 905.2 - in order to add language requiring abutter notification for residential building permits in excess of 1,000 square feet. Mr. Wadsworth provided a second.

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Mr. Wadsworth said that he agrees with the motion, but thinks the article should be amended to add certified mail as a minimum requirement.

Vote: 1-3.

**CONTINUED PUBLIC HEARINGS: 2020 ANNUAL TOWN MEETING ARTICLES;
ZONING RECODIFICATION (ARTICLES 25 and 26)**

Mr. Casagrande suggested the Board review the articles in reverse order. No one from the Board objected.

Article 26 - Attachment B

Mr. Casagrande said that neither the Zoning Board of Appeals nor the Planning Board is ready to adopt anything regarding large administrative changes to the Zoning Bylaw yet, and it still needs a lot more work. He said that this is something the Board needs to work on in the coming year.

Mr. Glennon asked Ms. Palmer if she still wants to present her comments on article 26 if the Board indefinitely postpones the article at the meeting. Ms. Palmer said that she has not been looking at all of the Planning Board agendas, but she would like to see proposed changes to the Zoning Bylaws highlighted. She said she would like to see residents being invited to discuss these changes. Ms. Palmer said that she spent years on litigations and she sees a lot of things in the Bylaw that need to be tweaked and other things that should not be removed.

Mr. Casagrande said that public hearing notices are posted for proposed changes to the Zoning Bylaws. He said to keep an eye on Planning Board agendas for the coming year because the Board will be taking up a lot of issues with the Zoning Bylaws.

Mr. Uitti said that he thinks it is productive to have representatives from the Board meet with interested residents before the public hearings. Mr. Uitti encourage Ms. Palmer to reach out to Ms. Massard or one of the Board members to set up a meeting. Ms. Massard reminded the public that she holds open hours at the Senior Center every Monday morning, when residents can come in with any questions or comments.

Mr. Glennon said that the Planning Board generally meets the second and fourth Wednesday of each month and the agendas are posted on the Town Website and at Town Hall. Ms. Palmer asked if there is a way on the website to notify interested residents of when agendas are posted.

Ms. Massard said that she has spoken to the Town Manager about holding a couple of forums, but there was not enough staff time available. She said the Planning Board is going to take a different approach and will have it on their agenda throughout the year. Mr. Casagrande said that in the past, the majority of the questions on zoning articles are not brought up until Town Meeting, rather than at public hearings.

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Mr. Uitti suggested that residents submit their written comments to the Board or staff before upcoming meetings.

Mr. Wadsworth said that the agenda item also mentions zoning maps. Ms. Massard said that the Town is currently updating its zoning maps, which have not been updated since 2009.

Motion: Mr. Glennon made a motion to close the public hearing. Mr. Uitti provided a second.

Vote: 4-0, unanimous.

The public hearing was closed at 8:17 PM.

Motion: Mr. Glennon made a motion to indefinitely postpone Annual Town Meeting article 26, titled Administrative Cleanup and Current Zoning Maps. Mr. Uitti provided a second.

Vote: 4-0, unanimous.

Article 25 - Attachment A

Mr. Casagrande said that the Attachment A (use table) that was distributed to the Board is a secondary form after he and Mr. Uitti met with Mr. Jim Lampert and Ms. Sally Wilson. He said that the key dispute was about residential business uses carrying forward into the business districts.

Mr. Uitti said that at the last Planning Board meeting, three key issues were identified: what does the Bylaw mean when you go up the “layer cake”, making sure the “Y” and “SP” labels are better reflected in the chart, and making sure that language remains consistent with the current Zoning Bylaw.

Mr. Casagrande briefly described all the edits made to the use table since the last Planning Board meeting. He said that numbering and footnotes need to be changed, some language needs to be added, some uses are proposed to be combined with similar uses and one section is proposed to split apart into two separate uses.

Ms. Massard said that no uses in the chart are subject to Planning Board review, so she suggested that the label read “SP” instead of “SP-BA,” since all of the special permits listed would be filed under the Zoning Board of Appeals.

Mr. Casagrande suggested that the public hearing be continued to the next Planning Board meeting, and he will have the edited version ready at the meeting. Ms. Massard said that she has been in constant communication with the Town Manager about the article and that she is anticipating that the Finance Committee will take it up at their meeting on Thursday night, which Mr. Casagrande will attend. The Board of Selectmen will discuss it at their meeting on March 9.

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She said that the Board of Selectmen and Finance Committee would like the Planning Board to take a straw vote to say that the article is moving in the right direction.

Mr. Casagrande said that he will make the edits discussed at the meeting and take the edited table to the Finance Committee meeting.

Ms. Massard said that she would like to circulate a working draft of the use table on the Town website.

Mr. Glennon said that he appreciates the efforts of Mr. Casagrande and Mr. Uitti taking the time to meet with concerned residents and he thanked Ms. Massard for her hard work on the article.

Mr. Uitti said that the Board has the opportunity to complete the use table. Mr. Casagrande said that Mr. Lampert said he will attend the March 9 Board of Selectmen meeting.

Straw Vote: 4-0, unanimous.

Ms. Massard suggested that the Board continue the public hearing to March 11, 2020 at 7:30 PM.

Motion: Mr. Uitti made a motion to continue the public hearing to March 11, 2020 at 7:30 PM. Mr. Glennon provided a second.

Vote: 4-0, unanimous.

Mr. Uitti said that in the past, he has seen the Planning Board spend a lot of time working on zoning articles only for them to be turned down at Town Meeting.

OTHER BUSINESS

Planning Director Report

Ms. Massard said that she wrote a memo detailing the Board of Selectmen's votes on the Planning Board's articles for 2020 Annual Town Meeting. She said she saw in the Clipper that the Finance Committee is not in support of the sea wall article, but the Board of Selectmen is in support.

Ms. Massard said that the Board was given the warrants for the Annual and Special Town Meetings with their agendas. She said that some of the articles have already been indefinitely postponed, and there is a Special Meeting within the Special Town Meeting.

Mr. Casagrande said that for the Special Meeting within the Special Town Meeting, he has heard online that the Town plans to take the property by eminent domain and then pay fair market price. Ms. Massard said that it is her understanding that the original language is not flexible

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enough, but it is trying to give the Town as much flexibility as they can. She said there are a lot of things that still need to be sorted out with the property subject to the article.

Ms. Massard said that the Town of Kingston notified Duxbury that they have decided to not move forward with the Exit 10 article. She said that the Town will have to indefinitely postpone the article and the Town does not have the resources to improve the intersection.

Ms. Massard said that the Planning Department is moving along with two grants with Woods Hole Group: one for beach maintenance and one for sea level rise. She said the Department will be doing a lot of outreach starting in March for these grants.

Ms. Massard said that she met with two representatives from the Sidewalk and Bike Path Committee recently, and they discussed complete streets. She said there have been a lot of complaints from Boards and Committees about the lack of staff and funding for transportation issues.

Ms. Massard suggested having a meeting with representatives from the Open Space Committee, Highway Safety Committee, Sidewalk and Bike Path Committee and Economic Advisory Committee meet with representatives from the Planning Board to discuss transportation issues, using the comprehensive plan to guide the work. The DPW Director and Town Manager think this is a good way to move forward.

Minutes

Motion: Mr. Uitti made a motion to approve the minutes from February 12, 2020 as written. Mr. Wadsworth provided a second.

Mr. Glennon provided several edits on the minutes.

Mr. Uitti said he approves of the amendments presented by Mr. Glennon.

Vote: 4-0, unanimous.

KP Law, P.C. Invoice

Motion: Mr. Glennon made a motion to approve KP Law, P.C. Invoice #124591, dated February 21, 2020. Mr. Uitti provided a second.

Vote: 4-0, unanimous.

Construction Cost Estimates

Mr. Glennon said it seems like the construction cost estimates spreadsheet has evolved into something that is pretty useful.

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

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ADJOURNMENT

Motion: Mr. Wadsworth made a motion to adjourn at 9:22 PM. Mr. Uitti provided a second.

Vote: 4-0, unanimous.

The next Planning Board meeting will take place on March 11, 2020 at 7:15 PM at the Duxbury Town Hall, 878 Tremont Street, Mural Room, lower level.

Materials reviewed at the meeting:

- Public Hearing Notice
- Citizen's Petition for Town Meeting 2020 - Article 22: Amend Zoning By-Laws - Abutter Notification for Residential Building Permits
- Planning Board Policy for Citizen Petitioned or Committee-Introduced Zoning Amendments
- Planning Board Chair Memo RE: Use Table - Article 25 2020 Annual Town Meeting
- Attachment A Drafts - Marked and Clean Versions
- Citizen's Written Comments on Previous Version of Attachment A
- Planning Director Memo RE: Town Meeting Articles
- 2020 Annual Town Meeting and Special Town Meeting Warrants
- Planning Director Presentation on Planning Board/Planning Department Town Meeting Articles 2020 from Board of Selectmen's Meeting
- Minutes 2/12/2020
- KP Law, P.C. Invoice #124591
- Building Permit Listings January 2020

