



# Town of Duxbury Massachusetts Planning Board

TOWN CLERK  
2023 JAN 24 AM 9:05  
DUXBURY, MASS

## Minutes 11/14/2022

The Planning Board met on November 14, 2022 at 6:00PM in the Large Classroom, second floor, Duxbury Senior Center; 10 Mayflower Street Duxbury, MA 02332.

Present: Scott Casagrande, Chair; Brian Glennon, Vice-Chair; Kristin Rappe; and Jennifer Turcotte.

Absent: Keith MacDonald, Clerk; David Uitti; and George Wadsworth.

Staff: Christopher Ryan, Planning Director; and Emily Hadley, Principal Assistant.

Mr. Casagrande called the meeting to order at 6:05 PM.

### Open Forum

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

### ADMINISTRATIVE ITEMS

Motion: Mr. Glennon made a motion to approve Amory Engineers, P.C. Invoices #16007A for Dogwood Drive in the amount of \$1,326.00 and #16007B for Hawthorn Hill in the amount of \$390.00; to approve the highlighted portions of KP Law, P.C. Invoice #138946 in the amount of \$180.00; to approve minutes of October 24, 2022 as written; and to approve the deadline extension request for the Nash Road subdivision. Ms. Turcotte provided a second.

Vote: 4-0, unanimous.

### **ZBA Case #2022-26: 32 Linden Lane**

Mr. Korey, the applicant, was in attendance to present the project. Mr. Korey said it is a standard pier, with the dimensions that the code requires. He said there are other piers in the neighborhood. Mr. Korey said he already received approval from the Conservation Commission on the application. The construction is timber and the gangway is aluminum.

Mr. Casagrande said nothing in the application is at odds with the Zoning Bylaws. Mr. Ryan said he noted in his report that there are some lines missing in the site plan for the Wetlands Protection Overlay Districts and wetlands flags.

Motion: Mr. Glennon made a motion to defer judgement to the Zoning Board of Appeals for the Special Permit application for 32 Linden Lane, and to add Mr. Ryan's comments from his Board Report dated November 14, 2022 to their referral memo to the ZBA. Ms. Turcotte provided a second.

Vote: 4-0, unanimous.

### **Millbrook Station: As-Built Plan**

Mr. Ryan reported that Pat Brennan, Amory Engineers, P.C., submitted a review letter that describes a few inconsistencies in what is shown on the plan and the actual conditions on the ground. He said they would like to have the applicants revise the plans to reflect the actual conditions as they are on the ground. He said the Board could then decide whether the change in the layout and number of parking spaces between the two plans constitutes a major or minor modification.

Mr. Glennon said he drove by the site, and noticed that there is a crosshatched area on the corner of 277 St. George Street and Railroad Ave, which had also included an ice machine.

Mr. Casagrande said they should ask the applicants to come back with an updated site plan, making sure to indicate the cross-hatched no parking area on the plan and anything else intruding on the area, and make sure that they are ending up with the required number of parking spaces. Mr. Ryan suggested the developer try to find another area to fit three compact spaces or another place for the one additional required parking space.

Mr. Glennon said he appreciates all the work that has been done by the developer, and they are all on the same team to make sure that the final as-built closes out any remaining issues. Mr. Casagrande noted that his company insures the developer now, but they did not insure them while it was going through approvals.

Motion: Mr. Glennon made a motion to continue this item to the next meeting. Ms. Turcotte provided a second.

Vote: 4-0, unanimous.

### **Hawthorn Hill: Lot Release Request**

One of the developers, Colleen Fine, from Cow Tent Hill Development, Inc., was in attendance. Mr. Ryan said Pat Brennan provided a comprehensive construction cost estimate for remaining items. He said this estimate can be revised if the binder course is done in the near future.

Mr. Glennon invited Ms. Fine to look over the cost estimate. Ms. Fine asked the Board if the binder cost could be removed from the bond price because it is being put down this week. Mr. Casagrande said they should likely keep the binder cost in the bond, since it needs to be inspected. Mr. Ryan asked the Board if they generally do incremental adjustments of the bond

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based on individual items being done. Mr. Glennon said the Board has generally not done this in the past.

Ms. Fine explained that there is a potential buyer whose rate lock is going to expire, so she is trying to get the lot released so they can buy the lot at the current interest rate.

The Board told the developers they could apply for a subdivision bond. Mr. Fine, via telephone, said they can go to the bank and see if they can get the bond, and then they could come back to a future meeting and have the bond reduced once the binder is done. Mr. Ryan told the applicants that if the Board pushes voting on the bond until the next meeting, the lots will not get released until the next meeting as well. The developers agreed to go forward with the current amount.

Mr. Glennon said the Board needs the bond in order for the lots to be released. This ensures that the developers will complete the subdivision. Ms. Fine said infrastructure is in, gravel is down for the road, hydrants are working, and paving will be done in the upcoming week. Ms. Fine acknowledged the bond requirement and understands that lots cannot be released without it.

Motion: Mr. Glennon made a motion to release Lots C and E of the Hawthorn Hill subdivision, conditioned on receipt of bond to be put forth by the developer subject to Amory Engineers P.C.'s Construction Cost Estimate for Performance Guarantee dated November 9, 2022 in the amount of \$202,400 with a 20% Contingency, for a total bond amount of \$242,880. Ms. Turcotte provided a second.

Vote: 4-0, unanimous.

Mr. Glennon asked the developers if use of the equipment can be timed so that it is not in the road (St. George Street) at the start or end of school days.

### **2023 Planning Board Meeting Schedule**

The Board agreed on the proposed meeting schedule for 2023, and they will deal with conflicts as they arise.

### **ANR Plan: 228 Old Cordwood Path**

Mark Casey, South Shore Survey, was in attendance to discuss the proposed plan. The land was left to Orié Fontaine and his two siblings when their father passed away. Mr. Casey said this plan does not create any new lots, and they are not intended to be buildable lots, they are just shifting lot lines.

Mr. Casey said Old Cordwood Path runs from Route 3A to Temple Street. There is Town-owned land abutting to the right.

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He said as they were preparing the plan, they noticed that a lot of work has been done over the years, such as fences and small portions of pavement. They created Parcel C to go with 234 Old Cordwood Path. Parcel B and Parcel C will be combined with 234 Old Cordwood Path.

Mr. Casey said a portion of the septic system for 232 Old Cordwood Path and a gravel parking area is encroaching the property line. So, they are creating Parcel A to be combined with 232 Old Cordwood Path.

He said the sister lives in the back lot. They are creating the easement for the purposes of accessing the back lot.

Ms. Rappe asked how the owners currently access 232 Old Cordwood Path. Mr. Casey said there is a gravel road that leads there. He said there is an existing drive but no deeded easement currently, which will be created by this plan.

One lot is listed under Chapter 61A and will continue be in Chapter 61A.

Mr. Ryan said this is a fairly straightforward reshuffling of the land, but the only thing of concern to him is the status of the way that provides the access. He said he is unsure of the legal status of the road as a way, so he thinks it is a good idea to have Town Counsel look it over and verify that it meets the standards for a way. He said he is concerned about the reasonable access for emergency vehicles, he spoke to the Fire Chief and other staff who have explained to him the challenges of getting to the area.

Mr. Glennon said he drove along the road and found it to be narrow, uneven, confusing, and poorly maintained. He was unable to drive end-to-end because of a large puddle of unknown depth, and had to turn around approximately mid-way. At one point, he had to back up to allow a vehicle traveling in the opposite direction to pass by. He said he doesn't think the Board in good conscience could endorse the ANR plan, as proposed, because the way is clearly inadequate for legal frontage purposes.

Mr. Glennon explained why the Planning Board could not recognize the way as being adequate for legal frontage purposes, but stated he understands the applicants' intent and thought there may be something that could be done. He suggested that the Planning Board might be able to endorse the ANR plan if applicants call Lot 1 something other than a "lot." Mr. Casey agreed that the way is not adequate for the purposes of creating ANR lots, and confirmed that nothing on the ground is changing, and that the access is remaining the same. The purpose of the plan is not to create ANR lots, but to move the lot lines as shown. Mr. Casagrande asked if the applicant would change the name of "Lot 1" to "Parcel E." Mr. Ryan suggested that the plan also include a note stating that the plan does not endorse Old Cordwood Path as a legal way for frontage purposes. Mr. Casey agreed and expressed his appreciation for the Board's assistance and cooperation. Mr. Casey asked if the Board would be amenable to voting on the plan tonight conditioned on the approved revisions, and bringing back the Mylar for signing.

The approved revisions to the plan are as follows:

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- Addition of Note 5, stating “This plan is not intended to make a determination of adequacy of access along Old Cordwood Path.”
- Change designation of Lot 1 to Parcel E everywhere it appears

Motion: Mr. Glennon made a motion to endorse the plan entitled “Plan of Land on 228 Old Cordwood Path Duxbury, MA.,” as not requiring approval under the Subdivision Control Law, subject to the addition of Note 5 and change of Lot 1 to Parcel E as discussed. Ms. Turcotte provided a second.

Vote: 4-0, unanimous.

**ANR Plan: 97 & 105 Alden Street**

Nick Leing, Grady Consulting, was in attendance representing the application. Also in attendance were Mark Jacobson, Evelyn Walker, Desiree Mobed, and Peter Randall of the Alden Kindred, the applicants.

Mr. Leing explained that the plan is for a simple lot line adjustment between the lots, and he worked with Mr. Ryan on a frontage waiver form. He said they are not proposing any adjustments to the frontage, the plan is for a lot line adjustment for lots that do not have adequate frontage originally.

Mr. Casagrande said there was a discussion before about this case because there was no form in existence before for frontage waiver request. Mr. Ryan said he had a discussion with Town Counsel and there remains some ambiguity as to how plans like this should be handled. He said he had a conversation with Mr. Glennon before the meeting, and they think it is appropriate to waive the frontage waiver requirement and consider alternate language that acknowledges the pre-existing, non-conforming frontages, to frame in a way that does not create a precedent in the future. Mr. Glennon pointed to Note 6 on the plan, and Mr. Ryan said yes, note 6 is satisfactory to address the concern.

Mr. Casagrande said everything else meets the bylaw requirements except for the frontages. Mr. Glennon also noted that the applicant is not creating any new setback non-conformities.

Mr. Leing said the Alden Kindred recently acquired both properties, and they are adjusting the lot lines.

Motion: Mr. Glennon made a motion to endorse the plan entitled “Plan of Land 97 & 105 Alden Street Duxbury, Massachusetts” as not requiring approval under the Subdivision Control Law. Ms. Turcotte provided a second.

Vote: 4-0, unanimous.

Motion: Ms. Rappe made a motion to withdraw the requirement of a frontage waiver as it is unnecessary in this particular case. Ms. Turcotte provided a second.

Vote: 4-0, unanimous.

### **Zoning Recodification**

Mr. Ryan said he has a cleaned up and edited version of the zoning bylaw document, with footnotes transferred to comments on the side.

He said there is a lot of movement of sections and subsections. He has been cross-checking some of the sections that were moved into Section 900 in the working document before he started in Town and it appears some of the sections have been rewritten. He said he is willing to check that these sections that were moved in Section 900 have the same language.

Mr. Casagrande agreed that he is not comfortable releasing the documents for broader review until they are sure that the language has been maintained for sections moved into Article 900.

Mr. Glennon asked Mr. Ryan if he is able to take the original document and run a comparison to see all the changes that have been made. Mr. Ryan said he will attempt and see if its workable. Mr. Casagrande said he is okay with Mr. Ryan working from home for a few days to focus on this work. Mr. Glennon asked Mr. Casagrande to reach out to the Town Manager and tell him the Board has asked Mr. Ryan to work from home to focus on this work for them. Mr. Casagrande agreed, and asked Mr. Ryan to find out if the reverse engineering analysis works, and let them know how long he thinks the work will take him to complete. Ms. Turcotte said it is very important that the Board gets the recodification right, so Mr. Ryan should take his time working on this.

### **Comprehensive Plan Implementation**

Mr. Ryan said he received everything from Mr. Uitti today, and he will be sending out emails to Boards and Committees very soon.

\*Mr. Ryan left the meeting at 7:15PM to attend the Selectboard's meeting regarding the seawall project.

### **Other Business**

Mr. Glennon said they will have to continue the fee schedule discussion to the next meeting. Ms. Rappe suggested adding a column to the fee schedule comparison spreadsheet for members to make suggestions about the fees.

Ms. Rappe said there was a note in the Board Report about DLTA. Mr. Glennon asked Ms. Hadley to ask Mr. Ryan if he needs anything from the Board for the DLTA item and if so, to put it on for the beginning of the agenda for the next meeting.

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**ADJOURNMENT**

Motion: Ms. Rappe made a motion to adjourn at 7:23PM. Ms. Turcotte provided a second.

Vote: 4-0, unanimous.

Materials reviewed at the meeting:

- November 14, 2022 Agenda
- ZBA Case #2022-26: 32 Linden Lane
- Amory Invoices #16007A & #16007B
- KP Law, P.C. Invoice #138946
- Draft Planning Board Minutes October 24, 2022
- Millbrook Station As-Built Plan dated August 19, 2021
- Amory Review Letter RE Millbrook Station As-Built Plan dated November 4, 2022
- Millbrook Station Administrative Site Plan Review Decision dated July 13, 2017
- November 9, 2022 Email from Mike Juliano RE: Millbrook Station As-Built Plan
- November 9, 2022 Email from Pat Brennan RE: Millbrook Station As-Built Plan
- 2023 Draft Planning Board Agenda
- Hawthorn Hill Subdivision Lots C & E Lot Release Request dated November 2, 2022
- Amory Letter RE: Construction Cost Estimate for Performance Guarantee dated November 9, 2022
- November 9, 2022 Email from Pat Brennan RE: Planning Board Meeting Request for Release of lots letter (Hawthorn Hill)
- Nash Road Deadline Extension Request dated November 2, 2022
- Notices from Abutting Towns dated October 24 – November 11, 2022
- October 2022 Building Permit Listing Report
- 228 Old Cordwood Path ANR Application and Checklist
- Plan entitled “Plan of Land on 228 Old Cordwood Path Duxbury, MA.,” dated September 28, 2022; prepared for George Orié Fontaine, Jr.; prepared by South Shore Survey Consultants, Inc.; 167 R Summer Street Kingston, MA 02364; stamped and signed by Lloyd J. Lowell, PLS; scale 1” = 40’; one sheet.
- 97 & 105 Alden Street ANR Application, Checklist, and Frontage Waiver Request
- Plan entitled “Plan of Land 97 & 105 Alden Street Duxbury, Massachusetts,” dated November 7, 2022; prepared for Alden Kindred of America; prepared by Grady Consulting, L.L.C.; 71 Evergreen Street Suite 1 Kingston, MA 02364; stamped and signed by Timothy R. Bennett, PLS; scale 1” = 40’; one sheet.
- Director of Planning – Duxbury, MA Board Report dated November 14, 2022
- Memo from Town Treasurer/Collector RE: Departmental Fees dated November 2, 2022
- Draft Current Fees Planning – Final
- Wrentham Fee Comparisons Example Spreadsheet
- Town of Truro Memo RE: Planning Department Recommendations for increasing certain Zoning Board of Appeals and Planning Board fees

