



Town of Duxbury Massachusetts Planning Board

TOWN CLERK
2020 DEC 14 AM 10:03
DUXBURY, MASS.

Minutes 11/16/2020

The Planning Board met on November 16, 2020 at 5PM. This meeting was conducted remotely via zoom video call due to COVID-19.

Pursuant to Governor Baker's March 12, 2020, Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020, Order imposing strict limitation on the number of people that may gather in one place, the Town of Duxbury's Board and/or Committee meetings will be conducted via remote participation to the greatest extent possible with members. Viewers can visit www.pactv.org/duxbury for information about Duxbury programming. To watch replays of a meeting, visit www.pactv.org/duxbury or to watch online visit PACTV's Video on Demand at www.pactv.org/ondemand.

NO IN-PERSON ATTENDANCE OF MEMBERS OF THE PUBLIC WAS PERMITTED.

Every effort was be made to ensure that the public could adequately access the proceedings to the best of our technical abilities; and despite our best efforts due to lack of technical infrastructure, this meeting will be available on PACTV to view a video recording and a transcript or other comprehensive record of proceedings as soon as possible after the meeting.

Public phone in-access was available during this meeting at 781-934-1100 x5475. Public email access was available during this meeting at duxburyplanningboard@gmail.com. The public was able to watch the zoom webinar by clicking on the following link:
<https://us02web.zoom.us/j/85277898854?pwd=R0NESWVKZ2JidmJTaDVleW5CZG52dz09>.

Present: Scott Casagrande, Chairman; Brian Glennon, Vice-Chairman; Cynthia Ladd Fiorini; Keith MacDonald; and George Wadsworth.

Absent: David Uitti, Clerk; and Jennifer Turcotte.

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

Mr. Casagrande called the meeting to order at 5:00PM.

Open Forum

No one brought anything forward during the open forum.

ZBA Referral, Special Permit: 8 Pine Point Road (ZBA Case #2020-20)

Applicant proposes to raze and rebuild a pre-existing, non-conforming dwelling. Robin Carlin, the applicant, was in attendance to discuss the project.

Mr. Casagrande said the applicants are moving the house to the center of the lot. He said the front setback to going from 18 to 26 feet. He said it will have the same lot coverage. Mr. Glennon said the two-dimensional setback is fine, but the building will be significantly higher. Mr. Carlin said the height is 37 feet from the grade to the ridge. Mr. Glennon said the Board of Appeals plan shows the height as 44 feet to the ridge, so that needs to be revised to reflect the correct height. Mr. Casagrande said the zoning bylaws allow 35 feet to the midline.

Mr. Glennon said the property is becoming more conforming, but the applicant needs to revise the plans to show the accurate height.

Mr. Glennon said this is another example of where the Town can modify zoning districts, as most of the properties in the area are non-conforming pre-existing lots and structures, and redevelopment requires zoning relief. He asked about the proposed structure height as shown on the plan, as it appeared to exceed the applicable limit.

Mr. Casagrande asked if the garage is staying in the same place and Mr. Carlin said that is correct. Mr. Casagrande said Sheet A6 shows the height to the ridgeline at 37 feet, so the only discrepancy is on the Board of Appeals plan.

Motion: Mr. Glennon made a motion to defer to the ZBA the special permit request of 8 Pine Point Road, noting there is an error in the Building Height Detail on the plan entitled "Board of Appeals Plan for 8 Pine Point Road in Duxbury, MA," by Ross Engineering Company Inc. and dated October 7, 2020 that should be revised to reflect the accurate height. Ms. Ladd Fiorini provided a second.

Vote: Mr. MacDonald - Aye; Mr. Glennon - Aye; Ms. Ladd Fiorini - Aye; Mr. Wadsworth - Aye; and Mr. Casagrande - Aye.

ZBA Referral, Appeal of Building Inspector's Determination: 65 Samoset Road (ZBA Case #2020-21)

Applicant requests the ZBA overturn the Zoning Enforcement Officer's decision to grant a building permit to raze and rebuild a pre-existing dwelling, while part of the project requires a special permit (the raze and rebuild of a pre-existing, non-conforming garage).

Charles Sullivan, the applicant (who filed the appeal), explained that he and his wife, Susan Maycock, own the property at 57 Samoset Road, which directly abuts 65 Samoset Road owned by Dr. Patel and his wife. The Patels recently razed the house and the garage previously on the site. The applicant said he does not have a problem with the house being rebuilt. The focus of his

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application is the proposed garage. He explained that: (a) the recently-raised garage was between the two properties and; (b) was a pre-existing non-conforming structure because of its setback to the Sullivan property. Mr. Sullivan said that there is an access easement across his land which was created when an encroachment was discovered. Mr. Sullivan stated that the easement prohibits grading or fill on his property. The easement is to allow the Patels to access their garage. He said the Patels' original grading plan had the garage raised by two feet.

Mr. Sullivan said the Patels' plan is to rebuild within the original footprint of the garage, but at a greater height. Mr. Sullivan and Ms. Maycock are opposed to the additional proposed height and massing of the new garage. He said the original structure was about 14 feet above grade, and the new structure is proposed to be about 22 feet above grade. Mr. Sullivan said that about two weeks ago, contractors came to the property and dug out the roots of a few maple trees and started to lay down footings for the new garage structure.

Mr. Sullivan said he and his wife were recently in contact with the contractor for the project, Freeman Boynton, and some of their concerns were addressed.

Mr. Casagrande asked if one building permit was issued for the two structures or if two separate permits were issued. Dennis Murphy, attorney for Mr. Sullivan and Ms. Maycock, said that one building permit was issued, while the application included two structures on the lot. He said Jim Wasielewski, Building Commissioner/Director of Municipal Services, issued a building permit for the house, noting on the permit that any work on the garage requires a special permit and that no building permit for the garage had been issued as part of the building permit for the house. Mr. Murphy said that the work at the site has gone ahead of the permit with respect to the footings of the garage having been poured.

Mr. Casagrande asked if the house has already been torn down and what the conditions on the property were at this time.

Ms. Ladd Fiorini asked if the maple trees that were mentioned earlier are on Mr. Sullivan & Ms. Maycock's property. Mr. Sullivan said the trees appear to be partly on their property. Ms. Ladd Fiorini expressed concerns that the trees will likely fall since their roots were dug out.

Mr. Glennon asked the applicants to clarify the nature of their appeal. Specifically, he inquired whether they are complaining about cut and fill within the access easement. Mr. Sullivan said that once they had pointed out that fill was prohibited in the easement, the proposed structure will now be the same grade as before, according to discussions they have had with the Patels. The easement across the Sullivan/Maycock property, therefore, was confirmed not to be an issue pertinent to the appeal. The matter to be resolved by the ZBA, therefore, is the legality of the proposed garage on the Patel property.

Dr. Patel acknowledged that there will be no fill in the easement. He said that he has spoken to the applicants before, and had said that he would remove the maple trees that are partly on their

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property at his own cost, however, Mr. Sullivan and Ms. Maycock declined. So, it was decided to leave the trees, but the roots that were on the Patel property were dug out.

Dr. Patel said there is no building permit for the garage yet and the height of the structure has not been decided. He said they are focusing on rebuilding the house, but they may apply for a special permit to rebuild the garage in the future.

Dr. Patel said they plan to reduce the massing of the garage by decreasing the volume, and they will make sure the access easement is maintained.

Mr. Sullivan said he and his wife did not hear about the project until the Conservation Department contacted them in August. He said Dr. Patel did tell them that he would like to remove the maple trees and they told him that they would like to keep them. Mr. Sullivan said he and his wife would not object to the garage if it were consistent with the height of the original garage, which is shorter than is shown on the current plans.

Mr. Murphy said the building permit for the project states that the detached garage is not permitted without a special permit. He said that the structure has already been torn down and footings have been put in. Mr. Casagrande said the applicants will need to apply for a special permit to be able to work further on the garage, since setback issues need to be addressed. Mr. Glennon asked Mr. Murphy what building permit he is referring to. Mr. Murphy said it is Building Permit 20-202, which permits the construction of a new single-family dwelling only, and states that the detached garage needs ZBA approval. Mr. Murphy said the demolition permit was for the dwelling only, but the contractor tore both structures down all at once and put down footings for the garages.

Mr. Glennon said that it appears the Board of Appeals is being asked not to overturn the building permit issued, but perhaps to rule that the Zoning Enforcement Officer is not enforcing the Zoning Bylaw (however, there was no building permit issued for the garage).

Mr. Sullivan said he and his wife will not object to the Patels' special permit application for the garage if they file for one at a smaller massing.

Mr. Glennon noted that since the Sullivan/Maycock appeal only relates to zoning enforcement, rather than a permit application, Dr. Patel should consider applying for a special permit directly from the ZBA. Mr. Murphy said he is willing to delay the appeal, so the filings can be reviewed at the same time.

Walter Mirrione, attorney for Dr. Patel, said the building permit they are proceeding under is for the dwelling only and they have no intention of building the garage without a special permit. He said they have a proposal for the garage structure, but the plans have not been finalized yet.

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Mr. Mirrione said he does not understand whether or not the garage was included in the permit to raze the dwelling. He said the appeal does not apply to this case because the appeal is for the building permit and the demolition and rebuild of the house is not an issue.

Mr. Casagrande said the Planning Board does not have the demolition or building permits for the project that they can review. He said the issue is the footings for the garage has been put in, which is not allowable.

Mr. Glennon noted that the appeal application specifically identifies both the house and the garage, but from this discussion it seems clear that it is only about the garage. Mr. Sullivan agreed. Mr. Glennon stated that the Planning Board does not have sufficient detail to render an opinion on the appeal given the limited materials presented.

Motion: Mr. Glennon made a motion to defer judgement to the ZBA for the appeal of the Building Inspector's determination at 65 Samoset Road. Mr. MacDonald provided a second.

Vote: Mr. MacDonald - Aye; Mr. Glennon - Aye; Mr. Wadsworth - Aye; Ms. Ladd Fiorini - Aye; and Mr. Casagrande - Aye.

Dogwood Drive

Ms. Massard told the Board that the applicants have asked to delay this item until they have all the relevant information available.

Complete Streets

Ms. Massard said the Planning Board has received the draft Complete Streets policy in their packet of agenda materials. She said there has been a six-week review process to the committees and departments, and she has received a few comments and edits, with some from the Planning Board and the complete streets consultant, Howard Stein Hudson. She said she changed the wording in the opening of the policy in response to a comment regarding trails to ensure that both Conservation and Cemetery lands are not considered part of the transportation network to be consistent with the Comprehensive Plan where Cemetery and Conservation Lands are managed with different objectives.

Mr. Glennon gave an overview, and said the Massachusetts Department of Transportation (MassDOT) has a list of required criteria for the Complete Streets policy, and this draft appears to meet all of the applicable criteria. He said Howard Stein Hudson prepared the initial draft policy for the Town to use as a template and it was edited by Ms. Massard to make the policy applicable to Duxbury.

Mr. Glennon said the policy is scored against the required criteria, and must be approved by the state. The better the score, the better chance the Town has of receiving funding. Ms. Massard said the Complete Streets grant is competitive. She said the Town has to adopt the policy in

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January to remain eligible in the program. She said she wanted to get final edits from the Board before doing a formal notice in the Clipper.

Ms. Ladd Fiorini asked if the Selectmen need to adopt the policy. Ms. Massard said the Planning Board will hopefully vote a recommendation on the policy, and then they will bring it to the Board of Selectmen for adoption.

Mr. Glennon said his only comment is that the items listed be worded as aspirational instead of mandatory in order to provide the Town with as much flexibility as possible. Ms. Massard said she edited the policy draft to say that the Town wants input and has exceptions similar to policies of other towns, but it may not reflect well in scoring to be aspirational up front. Ms. Ladd Fiorini said the third bullet point gives the Town a lot of flexibility.

Mr. MacDonald asked Ms. Massard how competitive this grant is. Ms. Massard said it is a statewide grant, and the Town has one year to adopt the policy, one year for her to receive training, and the Town must make training available for Boards/Committees that are involved in the decision-making as part of the complete streets program. She said the more compliant the towns are, the higher they will score and the more likely they are to receive funding. She said there are about 200 towns in the program competing for available funds.

Ms. Massard said she requested and received an extension for the adoption of the plan itself in order to provide adequate time for public input, into April of 2021.

Motion: Mr. Glennon made a motion to recommend approval of the Complete Streets policy as updated. Ms. Ladd Fiorini provided a second.

Vote: Mr. MacDonald - Aye; Mr. Glennon - Aye; Ms. Ladd Fiorini - Aye; Mr. Wadsworth - Aye; and Mr. Casagrande - Aye.

Invoices

Motion: Ms. Ladd Fiorini made a motion to approve Amory Engineers, P.C. invoice #15486A in the amount of \$148.00 for Evergreen Terrace and #15486B in the amount of \$74.00 for Duxbury Animal Hospital. Mr. Wadsworth provided a second.

Vote: Mr. MacDonald - Aye; Mr. Glennon - Aye; Ms. Ladd Fiorini - Aye; Mr. Wadsworth - Aye; and Mr. Casagrande - Aye.

Mr. Glennon said there is a lot of parking on the lawn and right along Depot Street at the Duxbury Animal Hospital. Ms. Massard said that it because they are currently retrofitting the inside of the building consistent with their special permit and administrative site plan review. Ms. Ladd Fiorini said there is a lot of construction in the back of the building as well. Ms. Massard said the developers need to build the back parking lot as part of the work.

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Minutes

Motion: Mr. Glennon made a motion to approve minutes from the meeting on November 2, 2020 as written. Ms. Ladd Fiorini provided a second.

Vote: Mr. MacDonald - Aye; Mr. Glennon - Aye; Ms. Ladd Fiorini - Aye; Mr. Wadsworth - Aye; and Mr. Casagrande - Aye.

Other Business

Ms. Ladd Fiorini asked about the agenda item for Prejudice Free Duxbury. Ms. Massard said the group asked to be pushed back to a later Planning Board meeting.

Ms. Massard said the Finance Committee, in its review of the budget, asked her if the Planning Board would consider digital only agendas, or even a hybrid of hard copies and digital copies of agenda mailings, since mailing out all of the agenda materials costs a lot of money from their perspective, (relative to the sets of plans and materials associated with a filing) – more than most other committees. She said some options for the agendas to consider include Board members picking up the physical copies of the agenda at Town Hall, or only mailing out the plans and sending out everything else digitally.

Ms. Ladd Fiorini said she is happy to pick up the materials from Town Hall. Mr. Casagrande and Mr. MacDonald agreed with Ms. Ladd Fiorini. Ms. Massard said she can get each members a key card to the building through the IT Department.

Mr. Glennon said it may be easier for staff to have all of the agendas sent out the same way, rather than have to transmit some packages by mail and others electronically. He said that as to hard copies, he would prefer to have materials mailed to him directly, rather than having to pick them up. He noted the Board is made up of volunteers, with many of the members also having full-time jobs, so it is easier to have everything delivered at home so that an extra trip to Town Hall isn't required, and so that incidents of forgetting the access key do not arise. He indicated that electronic transmittals of meeting materials seem to have been working well.

Ms. Massard said Board members can individually tell staff how they would like to receive their agendas.

Ms. Ladd Fiorini said that when everything is sent out digitally, she has some trouble accessing the data during the meeting. Ms. Massard said she would like to have the Board members be able to use a Town-issued tablet to access the data, as it is easier for her to do the meetings while using her computer at work which has two screens for the zoom meeting, and it has been a learning curve to adjust to an all-digital environment for everyone.

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Ms. Massard said they can look into getting everyone on the Board a tablet in the future. Ms. Ladd Fiorini expressed concerns with being able to access the data at Town Hall since they were not given the Wi-Fi password. Ms. Massard said staff can give members the password for guests to use the Wi-Fi, since ZBA and other members are using it in their meetings. Mr. Casagrande said it is hard to see plans on tablets.

Mr. Casagrande said if staff were to only send out the plans as hard copies, but everything else as digital, there would be some weeks where there would be no mailing, just digital packets. Mr. Wadsworth said he prefers paper, but he will consent to what the other members decide.

Ms. Ladd Fiorini said the Board could try going fully digital again, as there has been a learning curve and that it is getting easier. Ms. Massard said they receive their materials from the Building Department 100% digitally, and due to COVID, electronic filings have become the norm for all materials, which has been an adjustment; however, the Building Department will not be going back to paper filings. The staff could send out the materials digitally and send Mr. Wadsworth paper copies of the materials.

Mr. Glennon said if an application is under the Planning Board's jurisdiction, they could ask the applicants to mail the hard copy plans to the Board members. Generally, the plan for now is to stick with digital agendas and mail hard copy of the large plans, from this discussion.

Ms. Massard informed the Board that the Old Town Hall complex is being considered for inclusion in the National Register of Historic Places, such as what they did with the Shipbuilder's District and Tinkertown, and Myles Standish Park is also being looked at for this listing – it appears that the Historical Commission is moving these to the National Register, but that there has not been correspondence to the Department from the Duxbury Commission – this is a notice from the National Register - and has no enforcement or code implications.

Ms. Massard asked the Board when they want to meet again. She said there are two tentative meeting dates in December, on the 7th and the 14th. She said there are currently no pending applications or ZBA referrals. Mr. Casagrande said the Board should meet on the 7th and asked members to provide their input on the draft use table. Ms. Massard said Board will meet on the 7th and they can decide whether meeting on the 14th is necessary at that meeting.

Ms. Massard said there is only one zoning article on this year's Annual Town Meeting warrant; a FEMA article to adopt new Flood Insurance Rate Maps with an adjustment to the Zoning Bylaw as well, as part of the same article. She said the Board needs to hold a public hearing in January for this article.

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ADJOURNMENT

Motion: Ms. Ladd Fiorini made a motion to adjourn at 6:34PM. Mr. MacDonald provided a second.

Vote: Mr. MacDonald - Aye; Ms. Ladd Fiorini - Aye; Mr. Glennon - Aye; Mr. Wadsworth - Aye; and Mr. Casagrande - Aye.

The next Planning Board meeting will take place on Monday, December 7, 2020 at 5:00 PM via Zoom.

Materials reviewed at the meeting:

- November 16, 2020 Revised Agenda
- ZBA Case #2020-20: 8 Pine Point Road
- ZBA Case #2020-21: 65 Samoset Road
- Draft Complete Streets Policy for the Town of Duxbury
- Amory Invoice #15486A
- Amory Invoice #15486B
- Draft Minutes November 2, 2020

