



# Town of Duxbury Massachusetts

## Planning Board

TOWN CLERK  
2022 JAN 26 AM 9:30  
DUXBURY, MASS.

### **Minutes 12/13/2021**

The Planning Board met on December 13, 2021 at 6PM in the Large Classroom on the second floor of the Duxbury Senior Center, 10 Mayflower Street Duxbury, MA 02332.

Present: Scott Casagrande, Chair; Brian Glennon, Vice-Chair; Keith MacDonald, Clerk; David Uitti; and George Wadsworth.

Absent: Kristin Rappe; Jennifer Turcotte

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

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

### **Open Forum**

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

### **Administrative Items**

#### **Minutes**

Motion: Mr. Glennon made a motion to approve the minutes from November 29, 2021 as written. Mr. Uitti provided a second.

Vote: 4-0, 1 abstention.

### **ANR Plan: 9&17 Landing Road**

Kathy Muncey, representing the applicants, told the Board the Right of Way shown as Parcel A on the plan is the driveway for 17 Landing Road, but is owned by 9 Landing Road. The Right of Way was never assessed. She said there is an agreement between the neighbors and the owners of 9 Landing Road have agreed to give the driveway to the owners of 17 Landing Road.

Ms. Muncey said the actual boundary line is 10 feet further than the line shown on the plan, but that would make the land more non-conforming and she was wondering how she would go about that.

Mr. Glennon said the Board may be legally stuck since it is an ANR plan, they need to look at frontage, and the proposed plan shows a reduction to the frontage at #9, which is already under 200 feet. Mr. Glennon said that he does not recall the Board ever endorsing an ANR plan that reduces frontage below 200 feet. He stated that while the Board has endorsed ANR plans where frontage is nonconforming, those plans were land swaps or other lot line adjustments that did not modify the existing frontage. Ms. Muncey said the owners of 9 Landing Road own the area designated as Parcel A, but it is not counted as part of the frontage since it is not assessed. Mr. Glennon asked if Parcel A was created through a separate deed, and Ms. Massard expressed that while it is a paper right-of-way, frontage is not affected for either lot, both of which are previously existing legally grandfathered lots where the right-of-way is not being used as legal frontage for either lot at this time, and that granting the combining of the right-of-way into the lot is not derogatory to the zoning – it will increase the conformity of one of the lots. Mr. Casagrande asked if the driveway will remain a Right of Way. Ms. Muncey said no, it will be assessed.

Mr. Uitti expressed concerns about the lots not having 200 feet of frontage with the ANR plan. Ms. Muncey said neither of the lots have 200 feet of frontage currently. Mr. Glennon said they do not have authority to further reduce nonconforming frontage through the ANR process. Ms. Massard said both of the lots are pre-existing, non-conforming in terms of frontage and this plan will be decreasing the non-conformity of one lot and not affecting the other lot. The Board expressed their concerns with endorsing this particular ANR and setting a precedent for reducing nonconforming frontage.

Mr. Glennon said that rather than have the Board deny the ANR plan, he would be willing to provide the applicant with an opportunity to submit a legal memo showing that the Board has authority to reduce nonconforming frontage through the ANR process. He also noted that if the applicants would like to pursue this option, they would have to agree to an extension so there would not be a constructive grant of the application in the meantime. Ms. Muncey agreed to the extension and said that she can do a more thorough explanation on how this would work, and to go specifically to the zoning bylaw for how the lot which currently contains the right-of-way is not using the right-of-way as frontage, for the Board's review.

#### **McLean's Way Street Acceptance Plan**

Ms. Massard said the McLean's Way subdivision was approved and built. It was a 5-lot subdivision and 1 ANR lot. The developer promised the buyers to approach the Town about accepting the road as public. The Town made it clear throughout the process that the Town does not often accept roads as public because the Town does not have the funds to maintain them.

Ms. Massard said the Planning Board has to make a recommendation to the Board of Selectmen, who are the road commissioners for the Town. The Board of Selectmen will decide if it will remain on the Annual Town Meeting warrant.

Mr. Glennon said he remembered a provision in the subdivision decision that the road would not be used as a public way. Ms. Massard said that provision used to be standard, but it is no longer



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legal, since subdivision law is not binding on town meeting action on whether to accept a road. She said the applicants have the right to approach Town Meeting, but the road was intended to stay private. The Board agreed they want to convey to the Board of Selectmen that they approved the subdivision with the intention for it to remain a private road, and asked staff to provide more documentation for the recommendation.

**Proposed Keene's Brook Local Historic District Preliminary Study Report**

Ms. Massard said the LHDC just sent the new filing to the Massachusetts Historical Commission and it was considered complete. This agenda item was for the Planning Board to informally review the preliminary study report. The Board will give its report to Town Meeting regarding their recommendation on the proposed Local Historic District closer to March.

**Planning Director Vacancy Update**

Mr. Glennon said their last update, the hiring committee for the Planning Director position chose to reopen the position. He said Ms. Massard suggested that the Town continue using her services for a certain period of time, which is budget friendly for the Town. He said this is ultimately the Town Manager and Board of Selectmen's decision.

Ms. Massard said the Town Manager is presenting the budget to the Board of Selectmen tonight. She said that the Town Manager believes that this plan will save the Town a lot of money. Ms. Massard said she is averaging about 5 hours a week with the Town meeting with potential developers and giving guidance to Ms. Hadley. She said development and zoning articles have slowed down significant in recent years, as the town is approaching buildout, and so the demands on the department have been less while no new projects are being undertaken while they search.

The town does need planning to assist the DPW/town prepare to apply for Complete Streets funding, to obtain funding to update the Hazard Mitigation Plan in the coming year, and keep up with any new filings – only one subdivision is anticipated in 2022. She said the Town is nearing the end of the CZM grant which she is working on, and the Complete Streets Plan and MVP Plan have been completed after she went part time. Planning assists with the Green Communities Annual Reporting. She said many Towns on the South Shore are searching for a new Planner with a limited talent pool, something Duxbury is currently struggling with, and she said she will be able to stay with the Town through the end of this fiscal year, and potentially for 18 months if the Board of Selectmen is agreeable, and if the town does need this assistance, without taking on a heavy workload. The town has operated without a full-time planner in the past where an interim was hired during the search which resulted in the hiring of Ms. Massard.

Mr. Glennon said he was hesitant to go forward with the zoning recodification without a full-time Planner, but he is optimistic that they can still make progress, particularly with the assistance of Town Counsel. Ms. Massard said she will continue to work on the process with the Building Commissioner.

Ms. Massard said staff is working on redrawing the Wetlands Protection Overlay District map for the Town and the Town has a new contract with MAPC to complete the update the zoning maps.

\*Mr. MacDonald left the meeting at 6:47PM.

Mr. Uitti thanked Ms. Massard for her willingness to continue working for the Town. Mr. Wadsworth expressed concerns that once it is shown that the Department can operate without a full-time Planning Director, someone in the future will question the need for the position. Mr. Casagrande said he will address this concern to the Board of Selectmen. Messrs. Casagrande and Glennon indicated that they would attend the Board of Selectmen's meeting immediately following the Planning Board adjournment to provide input concerning the Planning Director matter.

### **ADJOURNMENT**

Motion: Mr. Uitti made a motion to adjourn at 6:49PM. Mr. Wadsworth provided a second.

Vote: 4-0, unanimous.

Materials reviewed at the meeting:

- December 13, 2021 Agenda
- Draft Minutes November 29, 2021
- ANR Plan Application & Checklist: 9 & 17 Landing Road
- Plan entitled "Plan of Land in Duxbury, Mass. on land owned by Allan Kornberg and Ramsey Fountain #9 Landing Road Parcel No: 099/964/000 and on land owned by Amy H. Willett Revocable Trust Amy H. Willett, Tr. #17 Landing Road Parcel No: 099/964/021," dated December 8, 2021; prepared by Flaherty & Stefani, Inc., 67 Samoset Street Plymouth, MA 02360; scale 1" = 20'
- Annual Town Meeting 2022 Citizen's Petition to Accept McLean's Way as a Public Way
- Grady Consulting McLean's Way Street Acceptance Plan Submittal and Supporting Documents
- Plan entitled "Street Acceptance Plan for McLean's Way Duxbury, Massachusetts," dated January 7, 2020; applicant McLean's Way, L.L.C.; owner/subdivider Bayside Properties, Inc.; prepared by Grady Consulting L.L.C., 71 Evergreen Street Suite 1 Kingston, MA 02364; scale 1" = 40'
- KP Law, P.C. City and Town Ways: A Primer on the Process of Layout, Acceptance, and Acquisition