



Town of Duxbury Massachusetts

Planning Board

TOWN CLERK
2023 FEB 28 AM 8:51
DUXBURY, MASS.

Minutes 2/13/2023

The Planning Board met on February 13, 2023 at 6:00PM in the Large Classroom, second floor, Duxbury Senior Center; 10 Mayflower Street Duxbury, MA 02332.

Present: Scott Casagrande, Chair; Keith MacDonald, Clerk; Kristin Rappe; Jennifer Turcotte; and David Utti.

Absent: Brian Glennon, Vice-Chair; and George Wadsworth.

Staff: Christopher Ryan, Planning Director.

Mr. Casagrande called the meeting to order at 6:00PM.

*Some of the agenda items were taken out of order. The minutes reflect the items in the order they were discussed.

Open Forum

None.

ADMINISTRATIVE ITEMS

Motion: Ms. Rappe made a motion to approve a two-year deadline extension for 104 Tremont Street Administrative Site Plan Approval, approve PGB Engineering, LLC Invoices #103A in the amount of \$156.00 for the Cooper Hill Subdivision and #103C in the amount of \$390.00 for the Parkside Subdivision, and approve the minutes of January 23, 2023 as written. Ms. Turcotte provided a second.

Vote: 5-0, unanimous.

LaCoss Road Subdivision

Mr. Casagrande pointed out that this item was described as enforcement on the agenda, but is now for a deadline extension. Mr. Ryan said staff had not been able to get in touch with the developer until recently. He said the developer is now requesting a deadline extension of 9 months to one year to complete the road's top coat and hydroseed the drainage area.

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Motion: Ms. Turcotte made a motion to approve a one-year deadline extension for the LaCoss Road Subdivision. Ms. Rappe provided a second.

Vote: 5-0, unanimous.

ANR Plan: 0 Powder Point Ave

Mr. Casagrande said the plan is for Marsh land owned by the Duxbury Rural & Historical Society. The applicant is proposing to break off the portion that contains an existing dock used by the homeowners of 30 Powder Point Ave.

Mr. Ryan said Amy Kwesell, K.P. Law, Inc., gave her legal opinion, which has been provided to the Board. He said neither of the lots are building lots, the plan is just to share rights in regard to the existing dock.

Motion: Ms. Turcotte made a motion to endorse the plan entitled "Plan of Land in Duxbury Mass.," prepared by Webby Engineering Associates, Inc., Country Road Plympton, MA; dated November 29, 2022 as not requiring approval under the Subdivision Control Law. Ms. Rappe provided a second.

Vote: 5-0, unanimous.

Zoning Recodification

Mr. Ryan said he received some feedback from Town Counsel that was requested, but it was not as robust as he had hoped so he will follow up with Town Counsel in regard to their review. He said he will be meeting the Chair and Vice Chair to go over the memo that was created with the review he conducted a few months ago, and they should have a clearer understanding of what needs to be done after this meeting.

Comprehensive Plan Implementation

Mr. Ryan said the Board needs to follow up and discuss scheduling a session with the Selectboard regarding Comprehensive Plan Implementation, and putting together a workshop for the owners of the Implementation Table tasks.

February 2023 Special Town Meeting: Citizens' Petition Zoning Amendment

Mr. Uitti recused himself from the proceedings, as his private practice is representing several residents who are in an ongoing dispute with the petitioners.

Motion: Ms. Turcotte made a motion to open the public hearing at 6:11PM. Ms. Rappe provided a second.

Vote: 4-0, unanimous.

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Public Hearing

Christopher Davidson, attorney at Berluti, McLaughlin & Kutchin LLP and representative for the proponents of the article, gave a brief description of the proposed article. He said this is an amendment to allow for AirBNBs as a matter of right. He said they are currently available via special permit, and the proposal is to strike the language that requires a special permit and move it into the permitted uses for the Residential Compatibility (RC) district. He said the intention is to allow a structure, including accessory structures, to be used as an AirBNB for up to 4 units.

Mr. Davidson said AirBNB took off in 2018, and Charlie Baker passed legislation about them around the same time, and Towns have been confronting this issue ever since. He said Duxbury only has 1 permitted Bed and Breakfast in the entire Town, but while they were going through the special permit process to operate a Bed and Breakfast at 160 Marshall Street, they discovered there are over 40 registered short-term rentals with the State but not reporting with the Town. He said there is a tax scheme involved in this, and by not acquiring permits from the Town for these Bed and Breakfasts, the Town is missing out on potential tax revenue. Mr. Davidson said the proponent, Charles "CJ" Husk, secured over 200 signatures from people that are interested in finding a path to make this work in the community.

Charles Husk, 160 Marshall Street resident and proponent of the article, said they have been working hard on this process. He said the idea of the Zoning Bylaw is to maintain peace and enjoyment of the neighborhood. He said currently, there is no incentive for owners of Bed and Breakfasts to come forward and report to the Town. He believes that by taking away the special permitting process, there will be more of an incentive for these Bed and Breakfasts to report to the Town and start contributing to the Town's tax revenue.

Mr. Husk said this article would create a set of rules for everyone to adhere to. He said only certain houses are set up to accommodate a Bed and Breakfast or AirBNB, so it would not be an issue of every homeowner trying to open one. He said the Bed and Breakfasts would have to be owner-occupied. He said they wanted to include accessory structures in the definition to give people the opportunity to enjoy historic spaces, in-law garages, etc.

Mr. Husk said he grew up in Town, and there were always cottages have been rented out short-term as a tradition of the Town. He said people are going to be renting out their properties either way, but the idea is to create a set of rules that everyone can follow that aren't onerous, and the Building Inspector can guide that process. He said the current permitting process creates a dialectic, creating a situation where neighbors can band together to stop a Bed and Breakfast from getting approved. He said this creates discord in the community, which is not what the Zoning Bylaw is intended for. He thinks the Town could make a lot of progress in this area, and provides an opportunity to include people who are already running businesses into the Town's tax revenue.

Benjamin Cronin, 17 Pill Hill Lane, raised several concerns with the article. He read the five overarching goals of the Town from the Envision Duxbury Comprehensive Plan, and suggested that the article does not meet any of these goals. He said the article would essentially make all

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residential areas de-facto commercial, and expressed concerns with how this would affect the Town's limited resources. He said he respects the board intention to deal with parts of the Zoning Bylaw that are outdated, but what is proposed is getting rid of real and legitimate regulatory authority.

Mr. Cronin said even with the owner-occupied aspect, there is still the possibility of a speculative property boom. He said based on the economic data, for every 1% increase of AirBNBs listings in a given zip code, there is a corresponding increase of 0.018% in rent, and an increase of 0.026% in housing prices. He said if the amount of AirBNBs in Town goes from 0 to 40 as the proponent suggested, that is a 4000% increase, which is a significant pressure on people with a fixed income. He said this is not good for equity in the Town broadly, and urged the Planning Board to not recommend support of the article.

Cleonice Husk, 160 Marshall Street resident and proponent of the article, said they have proof of concept, as Duxbury has been doing short-term rentals and long-term rentals for a long time. She said there are already about 40 illegal AirBNBs in the Town. She said they met several people that are already running AirBNBs while obtaining signatures for the citizen's petition. She said this provides an avenue for people who want to open their homes up to others, which is what communities are about. She said they do not want to infringe on neighbor's rights, and they can correct mistakes as they arise.

Richard Quigley, 68 Tussock Brook Road, said he and his wife used to own and operate the Powder Point Bed and Breakfast. He said it is unclear whether the article is dealing with the generic form of Bed and Breakfasts or AirBNBs. He said they had to go through several other permitting processes when going through the special permit process related to retail and commercial registration, food preparation & storage, alcohol licensing, safety code with the Fire Department, room and sale taxes, etc. and expressed concerns about what happens if these additional permits are not required from a safety standpoint. He questioned whether the Zoning Bylaw change applies to all residential properties including condos.

Alicia Babcock, 9 Ocean Road South, said she has never rented her home out, but has thought about it, and it never occurred to her that there was a special permit required by the Town to do so. She said for rentals that are already occurring in Town, the owners likely do not know these rules exist. She said the Town could put forth a better effort to educate people on what the requirements are, and some of the illegal rentals would likely rectify themselves, and if these rentals are publicly advertised, the Town has an avenue to follow-up and enforce those rules and regulations.

Ms. Babcock said she and her neighbors have gotten calls from investors looking to buy their houses and rent them out as AirBNBs from an investment standpoint, which they have tried to avoid. She said one house was unknowingly sold to an investor that turned the property into an AirBNB. She said transient renters have no connection to the neighborhood so they do not care where they park, how loud they are, where they put trash, etc., and it has a negative impact on the whole neighborhood. She said the whole Town is vulnerable to these investors as a coastal town.

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Jennifer Bylo, 60 Humphreys Lane and co-owner of 160 Marshall Street, said she met the Husks when her home was sold suddenly and she was able to stay at their property as an AirBNB. She said Mr. Husk has made an effort to be conservative and respectful to the Town's history, as he is a vested community member. She said the idea of the article is putting some sort of checks and balances in place. She said Duxbury has already been a part of the "sharing economy." She said when the homeowner is present when they are sharing their home, it should not be considered a "commercial use." She said the Town should be open to sharing its beautiful resources.

Phil Rice, 152 & 154 Marshall Street, said there is an easement next to his properties that lead to the property at 160 Marshall Street. He shared his experience with living with the operations at 160 Marshall Street for the last few years. He said the instances of trespassing and nuisance has been high and consistent, and there has been a lot of added traffic in the neighborhood. He said he is concerned with neighbors losing their say in the process of something that affects them directly, so he is opposed to the article.

Steven Roche, 48 Priscilla Lane, said from his understanding, the article is changing the definition of what a Bed and Breakfast is, allowing accessory structures to be used for this purpose and also makes the use available in the Residential Compatibility (RC) district by-right. He asked the public whether they would want to live next to a hotel. He said there is a reason the Town has a Zoning Board, to account for what can occur as a result of decisions, not just want the intention of the application is.

Linda Quigley, 68 Tussock Brook, asked if the Bed and Breakfasts are allowed by-right and four units are allowed on a property, does it supersede the original occupancy of the home? She said when you buy a home, you are told how many bedrooms you are allowed based on the septic system, how much parking is allowed, the occupancy of the total unit, etc. She asked if all of these regulations would still have to be abided by. Mr. Casagrande said the septic and parking would need to be adequate for the number of units, which would be overseen by the Building Department.

Steve Donovan, 202 Tremont Street, said he is in favor of allowing AirBNBs in Town, but the differences between Bed and Breakfast and AirBNB need to be codified clearly. He said Bed and Breakfasts require food inspection, kitchen sanitation, fire prevention safety, etc. He thinks the Town should allow AirBNBs, but should make some reasonable regulations surrounding it, and it needs to be codified carefully as to what is and is not allowed. He said the approval of the permit should be based on following the rules, not based on whether or not the neighbors like the proposal.

Gail Forest, lived in Duxbury for 50 years. She said the way the article was presented in the Clipper, framed it as saying that anyone in the Town can run a Bed and Breakfast, and there could be several on one street, which she does not think the people of Duxbury would want. She said the residents of the Town care what their neighbors think, and it should stay that way. She said it will be irritating for neighbors to have several cars going in and out of properties. She said AirBNB is a business, so it should be treated as such.

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Steve Farrell, 20 Ford Street, said he signed the petition for the article. He said he thinks people in Duxbury should be able to have short-term rentals, but there needs to be rules. He said he would be in favor of clarifying the special permit rules to accommodate a variety of situations. He suggested that seniors who rent out a room to help pay for their properties be considered unique investors.

Greg Morris, 272 Summer Street, said he has lived in Town for about 30 years. He said there are a lot of friends and family from out of Town who would love a place to stay locally. He said this would help local businesses, and provide tax benefits for the Town. He suggested possibly having a cap of the amount of Bed and Breakfasts allowed in a certain area. He asked the Planning Board to explore this idea and find a workable solution.

Lori Hall, 290 Kings Town Way, said Baker's housing program is not related to this article; it is talking about the need for permanent housing, not short-term vacation rentals. She said having friends and family stay at your house without charging them is not what this article is referring to, and does not require any permits. She said there is a difference between AirBNBs and regular Bed and Breakfasts so they need to have different rules apply to them. She noted that traffic is always busier in Town in the summer, as people have families stay with them, so adding Bed and Breakfasts would add to that traffic even more. She said she thinks AirBNBs should be in more urban settings, and she does not think Duxbury would benefit from more non-family summer visitors or more crowded roads.

Lester Lloyd, 21 Washington Street, said he agrees that the special permit process creates an unfair situation for the petitioners. He recommended reducing the 4-bedroom limit to 2-bedrooms, making it easier for the neighborhood to support. He said the required additional permitting related to food, fire safety, etc. should be built into the Bed and Breakfast section of the Zoning Bylaw. He said having the rentals being owner occupied should eliminate the issue of nuisance renters.

Manny Weiss, 158 Marshall Street, said his biggest concern is the concept with having Bed and Breakfasts allowed by-right, with no regulations and enforcement measures available for the Town.

Antonia Shoham, 35 Shipyard Lane, said the residents of Duxbury enjoy its beauty and privacy and love to have people visit. She said Shipyard Lane is a very small street that leads to a beach, and having Bed and Breakfasts or AirBNBs on the street would change the character of the neighborhood. She said they need more regulations about can and can't be done in terms of these rentals, and what the Town is going to be faced with, such as how many cars are allowed. She said the Town is opening itself up to people buying house because they know rentals are expensive, and making money off of their homes to help pay for high taxes and maintenance of older homes. She suggested that the proponents work on the article and flesh out what can and cannot be done with Bed and Breakfasts/AirBNBs.

Mary Lynn Carson, 21 Washington Street, said she and her husband have gone to Bed and Breakfasts all over New England and AirBNBs all over the country and other countries, and have

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enjoyed them. She said they are polite neighbors when they stay at these properties, but understands that not everyone is like that. She said there are a lot of things to be considered related to the issue, such as health and safety, parking issues, etc. She said articles can be amended at Town Meeting. She suggested the Planning Department, Zoning Board and the petitioners come up with some possible amendments to bring to Special Town Meeting.

Harry Scott, 174 Marshall Street, said this article is for a zoning change throughout the Town, not just for the Husks' property. He said this article would allow unlicensed, unregistered businesses to operate with no controls in Town. He said AirBNBs are a reality that the Town will need to face, but this should not be amended via citizen's petition; he said it should be the Planning Board's task to update the rules related to Bed and Breakfasts and AirBNBs in Town. He said unlicensed, unregistered businesses are not going to contribute to tax revenue for the Town.

Edward McGlinchey, 20 Forge Way, said it sounds like the special permit process may be slightly onerous, but he does not think taking away the regulations is the solution. He said the Planning Board will not have time to make changes to the Bed and Breakfast section of the Bylaw before the Special Town Meeting. He said it is important for as many citizens as possible to come to Special Town Meeting on February 28 to vote, as this is where the final decision on the article will be made.

Motion: Ms. Turcotte made a motion to close the public hearing at 7:38PM. Ms. Rappe provided a second.

Vote: 4-0, unanimous.

Planning Board's Deliberation:

Ms. Rappe thanked everyone for coming tonight. She explained that within the Town, the Residential Compatibility (RC) district is one of the strictest zones. She explained that as the Zoning Bylaw stands, there is an allowance for Bed and Breakfasts in the RC district through a special permit process through the Zoning Board of Appeals, which lays out restrictions to protect residents.

Ms. Rappe said the petition would take away the special permit requirement for Bed and Breakfasts in the RC district, and would add accessory structures to the definition of Bed and Breakfasts. She said she feels strongly that there needs to be some regulations in place when someone is running a business in the RC district. She explained that Board is currently working on zoning recodification with Town Counsel, and although the Board has not spoken extensively about the difference between AirBNBs, Bed and Breakfasts, and short-term rentals, the Board will be looking into that issue in the future.

Ms. Rappe also noted that Boston recently amended their Zoning Bylaws regarding short-term rentals, and the amendment was 10 pages long. She said this should be a bigger conversation, and she strongly opposes the petition.

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Mr. MacDonald said in his opinion, the ZBA needs to have some sort of oversight and the neighbors participating in the process is important, so the special permit is the best avenue for allowing a Bed and Breakfast in the RC district. He said he is against the article.

Mr. Casagrande explained that the RC district is the largest district in the Town, and is intended to be the most protected zone in terms of business operations. He said for uses allowable by-right in the RC district, besides educational and religious uses which are dictated by the State, the uses are generated around single-family homes and accessory structures, and places large limitations on what is allowable. For example, no more than one business vehicle weighing more than 10,000 pounds is allowable at a home in the RC district. Bed and Breakfasts are currently allowable by special permit in the RC district. He said it is important that all business uses in the RC district go through the special permit process so everyone is informed of what is proposed, neighbors can express their concerns, and the ZBA can decide and condition what is allowed through the special permit process.

Mr. Casagrande said he has concerns about accessory structures being used as Bed and Breakfasts, since accessory structures do not have the same safety requirements as single-family dwellings, such as smoke detectors, full bathrooms, etc. He said businesses in the RC district need some oversight.

Mr. Casagrande said there are some existing short-term rentals in the RC district that have not come before the ZBA for permits, they are in violation of the Zoning Bylaw. He said allowing a business by-right in the RC district would be a mistake.

Ms. Turcotte said she is grateful for the respectful dialogue. She said she agrees with Mr. Casagrande that allowing business uses by-right in the RC district would be a mistake. She said in her opinion, if the Zoning Bylaws about Bed and Breakfasts/short-term rentals are changed, it should be a lengthier process through the Town, working with Town Counsel. She said she is against the petition.

Motion: Jenn motion to recommend against the citizens petition for February 2023 Special Town Meeting. Mr. MacDonald provided a second.

Vote: 4-0, unanimous.

Mr. Casagrande reminded the public that this was just a recommendation from the Board to Town Meeting, but the vote itself approving or denying the article will be from Special Town Meeting.

ADJOURNMENT

Motion: Ms. Turcotte made a motion to adjourn at 8:02PM. Ms. Rappe provided a second.

Vote: 5-0, unanimous.

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Materials reviewed at the meeting:

- February 13, 2023 Agenda
- Director of Planning – Duxbury, MA Board Report dated February 13, 2023
- 104 Tremont Street Administrative Site Plan Approval Extension Request, dated January 25, 2023
- 104 Tremont Street Site Plan dated July 20, 2018
- Emails between E. Hadley and P. Delprete RE: LaCoss Road, through February 13, 2023
- PGB Engineering Invoices #103A and #103C
- Draft January 23, 2023 Minutes
- Public Hearing Notice – February 2023 Special Town Meeting Citizen's Petition
- Citizen's Petition, Proposed Zoning Bylaw Amendment
- February 28, 2023 Special Town Meeting, Article 1 – Citizens' Petition – Amend Zoning By-laws Article 410 Residential Compatibility District, Section 410.1
- ANR Application & Checklist: 0 Powder Point Ave
- Plan entitled "Plan of Land in Duxbury Mass.," prepared for Duxbury Rural and Historical Society; prepared by Webby Engineering Associates, Inc., Country Road Plympton, MA; dated November 29, 2022; scale 1" = 20'; one sheet.