



Town of Duxbury Massachusetts Planning Board

TOWN CLERK
2020 OCT -6 AM 9:00
DUXBURY, MASS.

Minutes 7/27/20

The Planning Board met on July 27, 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. For this meeting, members of the public who wish to watch the meeting may do so by viewing the Duxbury Government Access Channels – Verizon 39 or Comcast 15 – which will be available via video on-demand through PACTV's website
<https://www.pactv.org/pactv/towns/duxbury/duxbury>

DURING THE PUBLIC HEARING, MEMBERS OF THE PUBLIC WERE PERMITTED TO JOIN THE ZOOM USING THE INFORMATION BELOW:

Join Zoom Meeting

<https://pactv.zoom.us/j/93650141676?pwd=eE5OeWdIMDMvVTY3dkdPVHlOVHRuQT09>

Meeting ID: 936 5014 1676

Password: 576734

+1 929 205 6099 US (New York)

Every effort was 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.

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

Absent: None.

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

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

Open Forum

Ms. Ladd Fiorini told the Board that the Community Preservation Committee (CPC) had three recent meetings on Temple Street Farm, and they voted unanimously to leave it on the Town Meeting warrant as it is written.

5:05PM: Continued Public Hearing - Evergreen Terrace Subdivision

Mr. Brad McKenzie, of McKenzie Engineering, reminded the Board that at the last meeting, they discussed the three waivers that are being requested and addressed some concerns relative to maintaining abutter privacy with vegetation and grading, and the amount of cut and fill. He said that they left off as they were about to discuss nutrient loading at the end of the last meeting.

Mr. Peter Dillon, consultant from Geoscience representing the Applicant, said that it is a fairly straightforward calculation to determine nutrient loading. He said that at the site has a calculation of 2.67 mg/L, and the standard is 5. He said that the site is very large. Mr. Wadsworth asked a question about background numbers. Mr. Wadsworth said he contacted the Water Department and the site is about 500 feet away from the municipal Evergreen wellfield, which has a 0.92 nitrogen figure. Mr. Wadsworth said that there was not enough water today to meet demand and the Town had to ask residents to stop watering their lawns, and that the Board should be very conservative in their approach and they could possibly put in a septic system that reduces nitrogen numbers.

Mr. Glennon said there is a large amount of cut and fill, of about 6,900 cubic yards, required and he has concerns about what post-construction drainage will look like. Mr. Pat Brennan, from Amory Engineers, the town's peer review engineer, said he did his own calculation of nitrogen loading and came up with a similar figure to Mr. Dillon's calculation. He said the lots are so large and much of the lots will remain wooded, so it does not add up to much nitrogen. He said the drainage is infiltrating, so it is putting all the drainage back into the aquifer in compliance with the requirements.

Mr. Casagrande said asked if FAST or similar higher treatment septic system would be better even though the numbers are good. Mr. Dillon said it would be an improvement. Mr. Wadsworth said there may be more than one system that reduces nitrogen, FAST is one brand. He said that if that well was lost, about 2,000 houses would not have water. He said they could use the FAST or similar higher treatment septic system.

Mr. McKenzie said he appreciates the concerns about the municipal well. He said the site is about 7 acres for 2 single-family homes. He said that he feels the FAST or similar higher treatment septic system is not cost-effective for the site; it costs about \$8,000 to \$10,000 per system. He said they provided the requested nutrient loading report just to give the Board some background information, but that the Rules and Regulations do not require that this be submitted for this size project. Mr. Dillon said that it is highly unlikely for the well to get close to 5 mg/L.

Mr. McKenzie said that he does not think they are ready to agree to implement a FAST or similar higher treatment septic system tonight, and they do not feel that it is necessary.

Mr. Gerard Savard, the applicant, said that requiring some type of system for nitrogen loading when they are below 50% of the standard is too conservative, and he would rather put that money into a quality development. Mr. McKenzie said they are exceeding Town and State requirements for stormwater and they are infiltrating almost 100% of stormwater on the site. He said they are reducing runoff by 80% from existing conditions by the Westerman house. Mr. Casagrande said he is fairly comfortable with the filing. He said that although a lot of work is required, the site will look normal a year or two after development. Mr. Brennan said he calculated it would be about 1.8mg/L with the FAST or similar higher treatment septic system. Mr. Dillon said the FAST or similar higher treatment septic system would only reduce numbers by about one milligram per liter.

Mr. Casagrande said that he does not think the FAST or similar higher treatment septic system is necessary because the numbers are so small. Ms. Turcotte said the term "advanced system for nitrogen loading" would be more appropriate than referencing the FAST brand, but she agreed that the numbers are so small that it does not make a substantial difference. Mr. Wadsworth said it would cost upwards of \$4 million to replace the well, so he thinks keeping the numbers low would help the Water Department.

Ms. Massard suggested that it would be appropriate to continue the public hearing once more, to give the Applicant the opportunity to respond to the Board's concerns and the request being made regarding the advanced nitrogen treatment for the septic systems, which the Board is suggesting as a benefit for granting the waivers in its discussion. She said the Applicant has presented in the prior hearing that they can develop without the waivers, which are only being requested to advance the best design and to save costs to locate trees, and the imposition of conditions that are beyond what would normally be required for a two lot subdivision with the numbers provided is appealable, and the Board should be clear in its deliberations. Mr. McKenzie said that they have demonstrated that they could develop without any waivers. Mr. Dillon said that most of the groundwater is coming from bogs, and water at the site goes over the well source aquifer based on his calculations and information. He said most of the wells he has put in have not exceeded 1.5 mg/L and the Evergreen well site is one of the lowest in nitrogen concentrations.

Mr. Glennon asked the Applicants if they want to continue to two weeks. Mr. Savard said it seems the waivers provide improvement to the site, and he would prefer to take a vote tonight. Mr. Uitti said that when an applicant requests waivers the Board can make suggestions, but this is not an instance that the Board needs to argue. He said the waivers are cost-effective and make sense, so they do not need to continue again. Ms. Ladd Fiorini agreed and said she sees no benefit to losing the waivers. Mr. Casagrande said after hearing how the FAST or similar higher treatment septic system would negligibly affect the numbers, he is okay with the nitrogen numbers as presented.

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Mr. Glennon said that he does not have an issue with the waiver about the trees. He said he needs a little more understanding on the other waivers, and asked how they are in the interest of the public. Mr. McKenzie said the second waiver refers to the sag curve, which is shown on Profile Sheet 6. There is a sag curve with a K value of 24, and if it was raised to the required value of 40, it would result in a deeper cut in that area and the road would be lower, affecting the impact to topography and drainage.

He said the other waiver is shown on the Grading Plan Sheet 5. He said the limit of work is 30 feet off the property line. He said there is a gate and gravel road, with no trees in the area except against the fence. They plan on leaving the fence as it is with the plantings that are located there, and having a surface drainage system. He said if he complied with the requirement, the drainage system would be against or under the roadway, which would be difficult to maintain. He said the fence will be maintained and further vegetated. Mr. Savard said they met with the Westermans and agreed to save the fence and vegetation because it was of concern to them.

Motion: Mr. Glennon made a motion to close the public hearing at 5:58PM. Ms. Ladd Fiorini provided a second.

Vote: Casagrande - Aye; Glennon - Aye; Uitti, - Aye; Ladd Fiorini - Aye; Turcotte - Aye; MacDonald - Aye; Mr. Wadsworth - Aye.

Mr. Wadsworth suggest they drill two wells to monitor groundwater. Mr. Casagrande said he understands Mr. Wadsworth's point, but the Water Department issue may be beyond the jurisdiction of the Planning Board.

Mr. Glennon noted the significant dump truck traffic that would be necessary to remove the proposed volume of fill, and asked if a truck tire wash station is already a requirement within the Board's standard form provisions for site plan approvals. Ms. Massard said the applicant is required to have at least 100 feet of stone and could have a tire wash station as well. Mr. Brennan said the standard is 50 feet and is shown on Sheet 8, labeled "Proposed Stabilized Construction Entrance." Mr. Glennon asked Mr. Brennan if he thought that was adequate, and Mr. Brennan agreed that it is adequate. Mr. McKenzie said they are also required to file with the EPA and need a SWPPP plan. Ms. Massard asked if that requires regular monitoring and Mr. McKenzie said that it does.

Ms. Massard requested that the Board limit the hours of work for the neighbors' benefit.

Motion: Mr. Uitti made a motion to approve the three waivers as requested. Mr. MacDonald provided a second.

Vote: Casagrande - Aye; Glennon - Aye; Uitti, - Aye; Ladd Fiorini - Aye; Turcotte - Aye; MacDonald - Aye; Mr. Wadsworth - Aye.

Ms. Massard said that they could limit the hours of work to Monday-Saturday from 7AM-4:30/5PM.

Motion: Ms. Ladd Fiorini made a motion to approve the Definitive Subdivision plan with conditions. Mr. Uitti provided a second.

Ms. Ladd Fiorini suggested they push back the hours of work on Saturdays.

Vote: Casagrande - Aye; Glennon - Aye; Uitti, - Aye; Ladd Fiorini - Aye; Turcotte - Aye; MacDonald - Aye; Mr. Wadsworth - Nay.

Comments for Selectmen RE: Site Eligibility Application to MassHousing - Village at Harlowbrook (Proposed 40B Development), 766 & 782 Temple Street

Mr. Casagrande reminded the Board that they started discussing the project at the last meeting, but had to stop because they ran out of time due to the unforeseen limit imposed by PACTV.

Mr. Mark Casey, from South Shore Consultants Inc., reminded the Board that the proposed site is 19.05 acres. There are 40 units proposed, with two of the units being single-family units and the rest being duplexes. He said there is a portion in the rear of the site in a flood zone. The triangles on the plan represent wetlands flags that were accepted by the Conservation Commission.

Mr. Glennon said there are two standalone units at the end of the development, and neither of them are affordable. Mr. Mounir Tayara, the Applicant, said that one of the nearby three-bedroom units is affordable, which is comparable in size to the standalone units, and represented to the Board that MassHousing had already approved the specific designation of the affordable units. Mr. Glennon said that under Chapter 40B, at least 25 percent of units must be affordable, and asked whether the Applicant has considered going beyond the minimum requirements, as the Applicant previously stated that the town is in need of affordable housing. Mr. Tayara said increasing the number of affordable units is not economical.

Ms. Ladd Fiorini said the Feinberg Bog property has moderately-priced units and asked if that is feasible for this development. Mr. Casey said that they can take a look at it.

Mr. Casagrande said the Planning Board is advisory to 40B developments and it looks like the applicants are doing everything that they need to.

Ms. Massard said she went to the site and she thinks the Applicants are doing what is best with the land in terms of using the site for the proposed density (which is allowed under Chapter 40B), existing vegetation and existing roadways. She reminded the Board that they are just reviewing the eligibility at this time, and the Applicants will come back with an actual filing with the Town in the future. For now, the Board is advising the Selectmen as to Planning issues. She said the Health Director agrees that the site appears to be usable for the proposed Chapter 40B

purposes and will be peer reviewed at this density. Ms. Massard said that the Selectmen's meeting for this topic is on August 3 and there will be a public hearing in the future if there is a filing for those who are interested in the process.

Ms. Massard said that the Board does not need to vote, but she will write a letter to the Selectmen expressing the Board's comments on the eligibility of the site for a 40B development. Mr. Glennon asked Ms. Massard to inquire if there is any further opportunity for more affordability/moderately-priced housing in her letter.

At this point, Mr. Wadsworth disconnected from the meeting in order to attend to another matter.

Zoning Recodification: Table of Contents

Ms. Amy Kwesell, from KP Law, P.C., said she started a table of contents for the Zoning Bylaw for the Board to review so they can agree on how to group items. She said that no sections from the existing Bylaw were deleted but some were added. She said that this is a starting-off point and in the future she plans to put sections of the existing bylaw into this format and then track changes to show anything that has changed.

Ms. Massard said that the goal is to use new language as much as possible, using the old language as a reference, as was discussed by the Board in its previous meeting on this topic. She said they will need to update definitions. Mr. Casagrande said that they need to add uses. He said that the Board got the uses into a usable chart in the past year. Mr. Uitti said that he thinks the Board should use as much of the old language as is feasible to show the ambassadors that they are supplementing what is already in the Bylaw. He said that the Board needs to think about the presentation of the Zoning Recodification so they do not bring something forward at Town Meeting that gets shot down.

Ms. Kwesell said that right now there are no sections being deleted, but the Board will have to talk about deleting things eventually, in a public setting. She said that after updating the Bylaw/supplementing what is there they will put out the draft for public comment.

Ms. Kwesell said the format of the Bylaw is changing because the uses are taken out of text and placed into a use table. Mr. Casagrande suggested that as Ms. Kwesell move items over, it is highlighted where in the Bylaw policy decisions need to be made.

Mr. Casagrande asked why the "Nonconforming" section is first. Ms. Kwesell said that is how it is in the existing bylaw. Mr. Casagrande also said that the Dunes Protection Overlay District is not an overlay district. Ms. Massard said that the zoning maps and zoning bylaw need to be fixed to reflect that along with other conflicts/clarifications with the zoning maps. Ms. Massard said that she and Ms. Kwesell would prefer to participate in meetings with residents about Zoning Recodification so that they can be effective in their role in the recodification. She said that the Board needs to lay out the process of how citizens will participate with the Board. Mr. Casagrande said that the next step will be to share with stakeholders before Planning Board

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meeting in meetings with himself, Mr. Uitti, Ms. Massard, and Ms. Kwesell. He said he would like the Board to consider pulling out rules and regulations and putting those at the end as an appendix, which would be highlighted in the initial draft. Ms. Kwesell said that she knows what sections should come out and go into the rules and regulations, as this was already prepared by Ms. Massard for town meeting. Mr. Casagrande said they should start looking at issues addressed in the Zoning Bylaw Review Committee's report after the first draft.

Ms. Massard said they need direction from the Board on whether to go to Town Meeting with just the reorganization or include some policy changes. Mr. Casagrande said that he would like to bring it to Town Meeting as a whole. Ms. Massard said the Board needs to take care of the issues well before Town Meeting, so that no article related to the recodification which has not been fully vetted will make it onto the warrant. Mr. Uitti said that he and Mr. Casagrande will make sure that the concerned citizens do not continue to wait until the last minute to be involved. Ms. Massard said that the Board should avoid substantially re-writing zoning articles once they appear on the warrant due to the confusion for all of the other boards, committees, town meeting members and staff, and the possibility of falling outside the scope of the original warrant as happened in this past town meeting, and Mr. Uitti agreed.

Mr. Casagrande said that he would like to do all the work to the Bylaw at once, but it could be split into multiple phases. Ms. Kwesell said that she will highlight what needs to be changed in a single document. Mr. Uitti said that Board members will communicate with residents in writing after each step of the process.

Ms. Massard said she is hopeful that the Board has reached this level of communication and thanked the Board. Mr. Casagrande said that he will reach out to other stakeholders that he thinks will want to provide input. Mr. Glennon asked Ms. Massard if she had received clarity from the Board on the process and Ms. Massard said yes.

Mr. Glennon told Ms. Kwesell that he would prefer to have the nonconformities appear after the use and intensity section, rather than before that section. He also said that for article 800, if we place special emphasis on Site Plan Review, we may inadvertently diminish the importance of other sections in this article, such as land clearing and grading, and suggested that the Board reconsider placing a special focus on Site Plan Review as proposed. He also asked Ms. Kwesell if there should be cross-references for section 607. She agreed that they should cross-reference related articles throughout the Bylaw.

Invoices

Motion: Ms. Ladd Fiorini made a motion to approve the following four Amory Engineers, P.C. invoices: (a) #15415C in the amount of \$143.00 for The Paddock; (b) #15415B in the amount of \$679.25 for Evergreen Terrace; (c) #15415D in the amount of \$71.50 for 116 Tremont Street; and (d) #15415E in the amount of \$140.00 for 113 Tremont Street. Mr. MacDonald provided a second.

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Vote: Casagrande - Aye; Glennon - Aye; Uitti, - Aye; Ladd Fiorini - Aye; Turcotte - Aye; MacDonald - Aye. Mr. Wadsworth was not present to vote.

Motion: Ms. Ladd Fiorini made a motion to approve KP Law, P.C. invoice dated June 30, 2020 in the amount of \$922.50 for zoning recodification. Mr. Uitti provided a second.

Vote: Casagrande - Aye; Glennon - Aye; Uitti, - Aye; Ladd Fiorini - Aye; Turcotte - Aye; MacDonald - Aye. Mr. Wadsworth was not present to vote.

Minutes

Motion: Mr. Glennon made a motion to approve minutes from July 13, 2020 as written. Ms. Ladd Fiorini provided a second.

Vote: Casagrande - Aye; Glennon - Aye; Uitti, - Aye; Ladd Fiorini - Aye; Turcotte - Aye; MacDonald - Aye. Mr. Wadsworth was not present to vote.

Motion: Mr. Glennon made a motion to approve minutes from June 29, 2020 as written. Ms. Ladd Fiorini provided a second.

Vote: Casagrande - Aye; Glennon - Aye; Uitti, - Aye; Ladd Fiorini - Aye; Turcotte - Aye; MacDonald - Aye. Mr. Wadsworth was not present to vote.

Other Business

Ms. Massard said that the Town currently has a spending freeze, and there is no COVID-19 money available for purchases without prior approval at this point for the town. She said that if there are agenda items, the Board will meet in two weeks, but if not it could be pushed off a few weeks. She said they could have a meeting on the Town's new Zoom account, which would not be televised but these can be recorded and uploaded to YouTube. Mr. Casagrande said that is an option for zoning workshops in the future. Mr. Glennon said that his concern is that the public can see the Board and contact them.

Ms. Massard said that there are no zoning articles on the warrant for Town Meeting other than housekeeping. She said that the FEMA maps originally had to be adopted on or before July 22, 2020 and FEMA had threatened to drop all flood insurance throughout the south shore if it was not as the issues of COVID holding up town meetings was a major hurdle; then unexpectedly, FEMA dropped all of the chances to the maps until a future date. She said there are two housekeeping articles, one for medical marijuana and one for Local Historic Districts relative to the general bylaw.

ADJOURNMENT

Motion: Mr. Casagrande entertained a motion to adjourn. So moved by Ms. Ladd Fiorini.

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

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Vote: Casagrande - Aye; Glennon - Aye; Uitti, - Aye; Ladd Fiorini - Aye; Turcotte - Aye; MacDonald - Aye. Mr. Wadsworth was not present to vote.

The next Planning Board meeting will take place on Monday, August 24, 2020 at 5:00 PM via Zoom.

Materials reviewed at the meeting:

- Agenda July 27, 2020
- Public Hearing Notice: Evergreen Terrace
- Staff Report: Evergreen Terrace
- Evergreen Terrace Definitive Subdivision Application dated March 31, 2020
- Evergreen Terrace Environmental Impact Report dated March 16, 2020 and revised June 1, 2020
- Evergreen Terrace Definitive Subdivision Plans dated March 16, 2020 and revised June 1, 2020
- Evergreen Terrace Stormwater Report dated March 16, 2020 and revised June 1, 2020
- Email Correspondence RE: Evergreen Terrace- DPW and Water Department
- Amory Review Letters: Evergreen Terrace - April 28, 2020 and June 23, 2020
- McKenzie Engineering Response Letter to Amory Engineers - June 1, 2020
- Staff Report RE: Modoc Street ANR Plan - Bo & Freeman Boynton dated July 10, 2020
- Plan Entitled "Plan of an ANR Division of Land - 1 Modoc Street & 255 West Street Assessor's Parcels 070-035-007 & 070-035-006" and dated May 27, 2020
- Duxbury Construction LLC Proposed Road Improvements in Duxbury at 1 Modoc Street and 255 West Street dated November 14, 2019
- MassHousing Memo to Board of Selectmen RE: Proposed 40B - Village at Harlow Brook
- Draft Planning Board Memo to Board of Selectmen RE: Site Eligibility Application - Village at Harlow Brook
- Zoning Recodification: Draft Table of Contents - KP Law, P.C.
- KP Law Zoning Recodification Invoice #126749
- Merrill Invoice #9252
- Draft Minutes June 29, 2020 & July 13, 2020

