



# Town of Duxbury Massachusetts

## Planning Board

TOWN CLERK  
2023 NOV 20 PM 1:20  
DUXBURY, MASS.

### Minutes 10/30/2023

The Planning Board met on October 30, 2023 at 6:00PM in the Large Classroom, second floor, Duxbury Senior Center; 10 Mayflower Street Duxbury, MA 02332.

Pursuant to Chapter 2 of the Acts of 2023, this meeting was conducted in person and, as a courtesy, via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public and board members, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless required by law. Members of the public who wish to watch a replay of the meeting may do so by viewing the Duxbury Government Access Channels – Verizon 39 or Comcast 15. Viewers can visit [www.pactv.org/duxbury](http://www.pactv.org/duxbury) for information about Duxbury programming including streaming on Duxbury YouTube, to watch replays and Video on Demand.

Present: Scott Casagrande, Chair; Kristin Rappe, Vice Chair; Keith MacDonald, Clerk; Allison Shane; and Jennifer Turcotte.

Absent: Wayne Dennison and David Uitti.

Staff: Emily Hadley, Principal Assistant.

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

### Open Forum

Ms. Shane told the Board that the Planning Director's job description does not list the full salary range for the position. Mr. Casagrande will check in with Human Resources about this.

Ms. Shane asked if the Board is able to review a list of peer-review engineers to select from. Mr. Casagrande said yes, the Board has done this in the past and can add this to a future agenda.

Ms. Rappe informed the Board that the Town has received one application from a qualified candidate that withdrew for the Planning Director position, as well as several unqualified applicants. The job posting will remain open until the position is filled.

**Administrative Items**

*Invoices*

Motion: Ms. Shane moved to approve Environmental Partners invoice dated October 10, 2023 in the amount of \$18,715. Seconded by Ms. Turcotte.

Vote: 5-0.

*Minutes*

Ms. Shane made two amendments to the minutes of September 11, 2023.

Motion: Ms. Turcotte moved to approve the minutes of September 11, 2023, with amendments. Seconded by Ms. Rappe.

Vote: 5-0.

**ANR Plan #2023-10: 0, 35 & 67 Teakettle Lane**

Freeman Boynton, Duxbury Construction, was in attendance representing Leslie Torrey of 35 Teakettle Lane, Dan Napier of 67 Teakettle Lane, and Deb Bowen of 0 Teakettle Lane.

Mr. Boynton stated that the purpose of the plan is to take some of the land from 35 and 67 Teakettle Lane to create a new lot in between them, as well as to create new lots from 0 Teakettle Lane. Mr. Boynton explained that he worked with Jim Wasielewski extensively on bringing Teakettle Lane to a suitable width and grade. He said they built drainage, worked with the Fire Department to make sure they can access with emergency vehicles, and they will be planting shade trees next week.

Mr. Boynton explained that the location of a telephone pole on the site created a split in the road. He said they want to put the utilities underground in the future and remove the pole, but he thinks it a good traffic calming measure currently.

Leslie Torrey stated that she has lived there for about 50 years, and is very happy with the improvements made to the road.

Terry Kozmiski, 27 Teakettle Lane, voiced her concerns with not being notified of the paving activities taking place on the street or the excavation permit for the site. She said many trees were removed, changing the topography of the street, and she now experiences drainage issues on her lot. She told the Board she is concerned that the plan does not have to go through the Subdivision process, and she was not notified of the ANR plan as an abutter. Ms. Hadley

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clarified that abutter notification is not required for ANR plans and direct abutters are required to be noted by name and parcel number on the plan.

Ms. Kozmiski stated that heavy machinery has been parked at 0 Teakettle Lane for a long period of time, and dirt is being dumped there. Mr. Boynton explained that they have an earth removal permit which allows them to remove sand from 0 and 35 Teakettle Lane.

Mr. Casagrande explained that the Board endorses plans as not requiring approval (ANR) under the Subdivision Control Law if they have at least 200 feet of frontage on an existing road that if the way is passable and provides adequate access for the lots. He stated that the buildability of the lots will be addressed when building permits are applied for.

Planning Board members identified several minor corrections to be made to the plans, including spelling errors, a missing property line, an existing lot incorrectly identified as "proposed", and incorrect lot owner information. The Board also requested the applicants add a note to the plan describing its purposed, and revise the application form to identify Teakettle Lane as a private way.

Ms. Shane asked why there are some cape cod berms on the road but not everywhere. Mr. Boynton explained that they are to try to control the water so it gets to the rain garden, and they are placed to deal with scarring on the side of the road. Ms. Shane stated that she saw some large puddles during a drive-through of the site, and Ms. Turcotte stated that the Board does not have the authority to oversee the drainage on site with an ANR plan. Ms. Kozmiski asked what her recourse is if there is flooding on her lot, and Mr. Casagrande responded that she should contact the Department of Public Works or Building Commissioner if this occurs.

Ms. Kozmiski noted that the property owner information for her lot is listed incorrectly on the plan. Mr. Boynton stated that the property owner information is blank on the Assessor's database, so he will look up the information on the Registry of Deeds to update the plan.

Deb Bowen, who was involved in the process of the improvements to Teakettle Lane, asked Ms. Kozmiski for the best way to reach out to her so they can communicate going forward. Ms. Bowen said they would also be happy to take of the drainage issues on site.

Ms. Kozmiski asked about the timeframe for the buildings on the new lots and Mr. Boynton said they would like to start construction on the homes as soon as possible.

Motion: Ms. Turcotte moved to endorse the referenced plan as not requiring approval under subdivision control law, subject to a note describing the purpose of the plan, the addition of a front property line at 60 Teakettle Lane, correction of the property owner information at 27 Teakettle Lane, correction of minor spelling mistakes on proposed Lot 3, the removal of the word “proposed” on 60 Teakettle Lane, and correction of the application form to ensure it lists the road as private only.

Seconded by Ms. Rappe.

Vote: 4-1.

### **Recommendation to Selectboard Regarding the Layout of Dogwood Drive as a Public Way**

Ms. Hadley explained that Pat Brennan, PGB Engineering, LLC, did a site visit and concluded that all the outstanding items that were identified in the past have been addressed, besides some dead trees near the drainage basin that the homeowner’s association does not want to replace. Ms. Shane asked whether the Town would be responsible for the drainage basin, and Mr. Casagrande confirmed.

Mr. Casagrande said Dogwood Drive appears to meet the requirements for a Town road, and he does not have any issues with recommending approval if the Homeowner’s Association provides in writing that they do not want to replace the dead trees around the detention basin, as suggested in the PGB Engineering, LLC report dated October 13, 2023.

The Board also discussed the need for the Selectboard to seek the opinion of the Department of Public Works about whether they are able to take on the maintenance of the detention basin.

Motion: Ms. Turcotte moved to recommend to the Selectboard approval of the street acceptance request for Dogwood Drive, subject to the conditions that the Homeowner’s Association provide the Selectboard with written confirmation that the dead trees around the detention basin will be removed and there is no expectation from the Town to replace those trees, and that the Selectboard seeks the DPW’s opinion on whether they have the capacity to take on the maintenance of the detention basin.

Seconded by Ms. Shane.

Vote: 5-0.

### **MacFarlane Farms Discussion**

John Baldwin and the homeowners of 1, 2 & 3 MacFarlane Farms Lane were in attendance to discuss the status of the Subdivision. The development was originally approved in 2010, the development was sold by the MacFarlanes to Steve Vazza, and Mr. Baldwin bought the lots.

Mr. Baldwin explained that the roads are about 14 feet wide, there is a 50-foot Right-of-Way, and there is a cul-de-sac shown on the plans, designed to meet the Subdivision Rules and Regulations, but does not exist on the ground. He said he took care of loaming on either side of the road and the homeowners have taken care of the grass.

A cash performance bond was put up by Mr. Vazza as a performance guarantee for the remaining work to be completed. Mr. Baldwin stated that only the base coat of the road was put down for the driveways. Pat Brennan's email dated March 6, 2023 lists the remaining items that need to be completed for the development, including the top course of the pavement, bounds, stop line of pavement, and as-built plans.

Staff tried to reach out to Mr. Vazza via phone, email, and certified mail many times and did not receive a response, so the Board voted at their meeting on May 8, 2023 to find the developer in default and to seize the remaining surety for the project.

Town Counsel's opinion on the performance bond is that the bond cannot be given to the homeowner's association, and that the bond should be transferred to the General Fund and the Town would need to get Annual Town Meeting approval in order to spend the performance bond fund.

Mr. Baldwin stated that he does not understand the bond going into the General Fund since the performance bond was created to ensure that the work gets done. He stated that he thinks the homeowner's association should be able to use the bond to start the remaining work, but they will have to come up with a lot of money, as the remaining performance bond funds are not sufficient to cover the work needed.

Mr. Baldwin suggested that the homeowners perform the remaining work, except the as-built plans and the bounds to save money. The Board agreed that no as-built plan or bounds will not prevent the homes from being sold or affect resale value, but they will likely not be able to petition the Town for acceptance as a public way.

Mr. Baldwin will reach out to his attorney regarding whether the bond can be released to the homeowner's association if they get written approval from Mr. Vazza to have the bond released to the property owners so they can complete construction.

The Board discussed looking into the performance bond policy in the future, to prevent this situation from happening again.

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The Board asked Ms. Hadley to provide Mr. Baldwin with information about the original amount of the performance bond, as well as any reductions that were made over time.

### Adjournment

Motion: Ms. Turcotte moved to adjourn at 7:22PM. Seconded by Mr. MacDonald.

Vote: 5-0.

Materials reviewed at the meeting:

- October 30, 2023 Agenda
- Environmental Partners Invoice dated October 10, 2023
- September 11, 2023 Draft Minutes
- ANR Application
- Plan entitled "Plan of Land on Teakettle Lane and Modoc Street in Duxbury, Massachusetts," prepared for Teakettle Lane LLC; prepared by S. Robert Phinney, 21 Acorn Street Middleborough, MA; dated September 8, 2023; scale 1" = 60'; one sheet
- Memo RE: Teakettle Lane ANR Plan Background Info – October 30, 2023 Planning Board Meeting
- Staff Report RE: Teakettle Lane – Access Improvements – December 12, 2018 Planning Board Meeting
- Letter to Jim Wasielewski from Natalie & Freeman Boynton III RE: Teakettle Lane dated November 2, 2022
- Plan entitled "Proposed Roadway Grading," prepared for Teakettle Lane LLC; prepared by NFB Design, LLC, P.O. Box 2602 Duxbury, MA; dated October 12, 2022 and revised through October 13, 2022; scale 1" = 50'; one sheet
- PGB Engineering, LLC Report RE: Teakettle Lane Access dated October 10, 2023
- Duxbury Fire Department Letter to Freeman Boynton III dated October 20, 2023
- Staff Memo RE: October 30, 2023 PB Meeting: Dogwood Drive Street Acceptance Plan Info
- Plans entitled "Definitive Subdivision Plan Dogwood Drive (F.N.A. #1065 Summer Street) Duxbury, Massachusetts," prepared for Ducks Berry LLC; prepared by Grady Consulting, L.L.C., 71 Evergreen Street Suite 1 Kingston, MA; dated May 30, 2017 and revised through January 24, 2018; 12 sheets
- Selectboard Memo to Planning Board RE: Layout of Dogwood Drive as a Town Way dated May 8, 2023
- PGB Engineering, LLC Meeting Notes at Dogwood Drive Subdivision dated October 13, 2023
- Staff Memo RE: October 30, 2023 PB Meeting: MacFarlane Farms Background Info
- Email from Pat Brennan, PGB Engineering, LLC RE: MacFarlane Farms Subdivision dated March 6, 2023
- Planning Board Letter to Stephen Vazza RE: Notice of Default and Surety Forfeiture for MacFarlane Farms dated May 17, 2023