



# Town of Duxbury Massachusetts Planning Board

TOWN CLERK

2022 FEB 23 AM 10:10  
DUXBURY, MASS.

## Minutes 1/24/2022

The Planning Board met on January 24, 2022 at 6PM. The meeting was conducted remotely via zoom video call.

Pursuant to Governor Baker's Chapter 20 of the Acts of 2021 dated June 16, 2021, An Act Relative to Extending Certain Covid-19 Measures Adopted During the State of Emergency regarding suspending certain provisions of the Open Meeting Law, G.L. c. 30A, §18, 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](http://www.pactv.org/duxbury) for information about Duxbury programming including streaming on Duxbury YouTube, to watch replays and Video on Demand. To watch replays of a meeting, visit [www.pactv.org/duxbury](http://www.pactv.org/duxbury) or to watch online visit PACTV's Video on Demand at [www.pactv.org/ondemand](http://www.pactv.org/ondemand).

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 will be available 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](mailto:duxburyplanningboard@gmail.com). The public was able to watch the zoom meeting by using the following login information:

**Zoom Video Link:** <https://zoom.us/> click "Join a Meeting"

**Zoom Phone Number:** 1-(929)-436-2866

**Meeting ID:** 860 6534 3864

**Passcode:** 606969

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

Absent: None.

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

Mr. Casagrande called the meeting to order at 6:01 PM.

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### **Open Forum**

Mr. Wadsworth told the Board that his Planning Board term ends in two years, and he will not be running again. He said it will have been 20 years of him being on the Planning Board, and he has been through a lot of members during his time on the Board. He said the Board is here to serve the public, not applicants, and he wants the Board to keep that in mind when they are making decisions. He said they have moved away from that in recent years, which concerns him. He said he is proud of his Planning Board colleagues, and urged them to continue in the best interest of the public.

Mr. Glennon said he got a call from Amy MacNab to discuss the Planning Director position. Ms. MacNab asked him to tell the Board she is interested in having a joint meeting between the Planning Board and the Board of Selectmen. Mr. Glennon said it is an important position and everyone agrees that a full-time planner is necessary. Mr. Casagrande said the Town found money in the budget to block out the salary for the position. He said they are planning to start readvertise the position right after Town Meeting.

Mr. Glennon said there has been no concern about Ms. Massard's continued support, and he said the Board is very appreciative. Ms. Massard said she is here to help the Board. Mr. Glennon said everyone is on the same page about the importance of the position, and no one wants to eliminate the role.

Ms. Rappe asked for an update on the Complete Streets Grant. Ms. Massard said Ms. Hadley coordinated with Howard Stein Hudson after the Board of Selectmen reviewed and approved the plan to fix some issues with the plan before submittal. Ms. Hadley submitted the Final Prioritization Plan to the State; and it was approved. Ms. Massard said she met with the DPW Director this week, and they plan on applying for funding in the Spring. They can use the funds on constructing sidewalks by the schools and installing a computerized speed sign for the Police Department. Both of these projects can be completed without spending money on engineering.

Mr. Casagrande said the Economic Advisory Committee is interested in getting on the Planning Board's agenda in April or May to discuss how to move forward with Hall's Corner potential layout changes.

### **Administrative Items:**

### **Minutes**

Motion: Ms. Rappe made a motion to approve the minutes from January 10, 2022. Mr. Uitti provided a second.

Vote: Ms. Rappe – Aye; Ms. Turcotte – Aye; Mr. Uitti – Aye; Mr. Casagrande – Aye; Mr. Glennon, Mr. MacDonald, and Mr. Wadsworth abstained due to absence from the meeting.



**ZBA Referral, Appeal: 39 Shipyard Lane (ZBA Case #2022-01)**

Mr. Casagrande said the basis of the appeal is that the plan exceeds the 15 percent allowable lot coverage. He said he is unsure of the square footage of the lot. Mr. Glennon said the case is a math/engineering issue; he said the Board will likely defer, but they will hear from members of the public who were in attendance at the meeting.

Susanna Sheehan, representing the applicant who she said is her mother, was in attendance. 39 Shipyard Lane, said the lot coverage is over 15%, so a building permit is not allowable by-right even if the homeowners got rid of the garage. Mr. Casagrande said it is a small lot, so they would likely get the extra 3 % option, but a special permit is still needed for that.

Jessica Williams, representing the homeowners of 39 Shipyard Lane (the McKeags), said they received a certified plot plan for the property, so they do not generally question the calculations of a certified engineer. She said the calculations have a +/- and reference the deeds as the official measurements. She said the plan meets exactly the 15% coverage.

Mr. Casagrande said this is a case of determining whose calculations are correct, which is something that the Zoning Board of Appeals can handle.

Motion: Mr. Glennon made a motion to defer judgement to the Zoning Board of Appeals for ZBA Case #2022-01. Ms. Turcotte provided a second.

Vote: Mr. Glennon – Aye; Ms. Rappe – Aye; Mr. Uitti – Aye; Mr. MacDonald – Aye; Mr. Wadsworth – Aye; Ms. Turcotte – Aye; and Mr. Casagrande – Aye.

**9 & 17 Landing Road ANR Plan**

This item was continued from a December meeting.

Attorney Kathy Muncey, representing the project, said she submitted a memo to the Board earlier that afternoon. Mr. Glennon said in the future they would prefer to receive memos earlier ahead of the meetings so they have adequate time to review it. Mr. Uitti said he read through the memo and the court case (Norton decision) that were provided and he said he is interested in what Town Counsel has to say about the matter.

Mr. Uitti said that the plan is for two lots that are next to each other, and part of one lot is the way, which was given as an easement to the other lot for use of the way.

He said in regards to the Norton decision, that case involved one lot with two structures on it that was to be divided into two lots. Ms. Muncey said the case did stand for the fact that it is not a subdivision. She said the case focused on frontage, and showed that one house lot with reduced frontage is not grounds to deny an ANR plan. Mr. Uitti said this is a different issue since it is not a division of a tract of land into two with two structures on it.

Mr. Uitti said the zoning bylaws require every lot to have frontage on a public way, and this plan does not show every lot having enough frontage. Ms. Muncey said the plan is not creating new building lots and there is grandfathering involved with the zoning of the lots. She said it is not creating a new non-conformity. She said the way is not taxed as part of the lot for zoning purposes, and they are just changing the lot lines to convey what the current use is.

Ms. Massard said that they came across some cases similar to this when she was the Planning Director in Plymouth, and she believes Counsel will support what Ms. Muncey is saying.

Mr. Glennon said he agrees with Mr. Uitti that it is worthwhile to ask for Town Counsel's input on the plan. He said he cannot recall endorsing an ANR plan that reduces frontage that is already non-conforming. He said he does not have an issue with endorsing the plan if Town Counsel agrees with Ms. Muncy's legal argument. Mr. Uitti concurred. Ms. Muncey agreed to this and said she will sign the form to extend the matter so that there will not be a constructive grant.

The Board decided to continue this matter to the meeting following when they receive an opinion from Town Counsel.

### **334 & 340 St. George Street Subdivision (Hawthorn Hill)**

Rick Grady, Grady Consulting LLC, said they are requesting that the Planning Board endorse the Mylar plans for the subdivision at 334 & 340 St. George Street.

Mr. Uitti reminded the Board that he will be abstaining from any discussion, deliberation, or votes on this matter because an attorney at his firm represents the applicants.

Mr. Grady said the name "Hawthorn Hill" was approved by the Town Historian. Ms. Massard told the Board there is a slight change to the drainage lots on the plans that were submitted. She said the plan is to continue this matter to the next meeting to sign the covenant and plans.

Ms. Massard said she met with one abutter this week who had some ideas about revisions to be made to the plans, and she referred them to Mr. Grady. Mr. Grady said he spoke to the abutter, who is deciding whether they will be making an offer on buying the property, and reviewed some of the changes, but the changes will likely not stop the existing house from being razed. Mr. Grady said they adjusted a drainage lot line, but it is not related to the abutter's questions. He said there will still be adequate access to the drainage lot. Ms. Massard said she needs more time to review and get Amory Engineers' opinion on the revised plan, so she suggested continuing the item to the next agenda.

Jessica Williams, abutter to the project, asked to confirm that the provision to maintain a 20-foot buffer of trees around the lots is in the covenant. Mr. Grady confirmed and said it is well-labeled on the plans. Ms. Williams asked if an easement to access the Wildlands Trust land is still included in the plans. Mr. Grady said these are included in the plans. Ms. Williams asked if they got the Wildlands Trust's permission to place the easement; she said there is a large sign on a

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fence on her property that she cannot access the land that way. Ms. Massard said the easement is leading to an existing trailhead. Mr. Grady said the easement is where an existing easement leading to a well is, but they will look into checking in with the Wildlands Trust.

The Board decided to continue this item to the next meeting on February 14, 2022.

### **Other Business**

Ms. Muncey asked the Board about the possibility of a potential ANR plan for beach lots on Gurnet Road. She said most people in this area own beach lots opposite their house lots. Ms. Greene does not own the beach lot opposite her house lot, but her path to the beach does cross over it. Ms. Burman owns the beach lot, but she only wants to convey part of the lot to Ms. Greene. She said neither of the lots will be buildable. Ms. Massard said there is no wall on these lots, just sand, and they are part of the Town that are in the beach nourishment plans for the Coastal Zone Management grant. Ms. Muncey said they are taxed separately by the Town. Ms. Massard said these lots were laid out over 100 years ago. She said there is no intention to put a seawall in this area; it is a protected dune resource area and will never be buildable. Mr. Glennon suggested that this question also be posed to Town Counsel, as it seems similar to the ANR frontage question discussed earlier in the meeting.

### **ADJOURNMENT**

Motion: Mr. Uitti made a motion to adjourn at 6:56PM. Mr. MacDonald provided a second.

Vote: Mr. Glennon – Aye; Ms. Rappe – Aye; Mr. Uitti – Aye; Mr. MacDonald – Aye; Mr. Wadsworth – Aye; Ms. Turcotte – Aye; and Mr. Casagrande – Aye.

Materials reviewed at the meeting:

- January 24, 2022 Agenda
- ZBA Case #2022-01: 39 Shipyard Lane
- January 10, 2022 Draft Minutes
- 9 & 17 Landing Road ANR Application, Checklist & Plan dated December 8, 2021
- 9 & 17 Landing Road ANR Mutual Extension Form
- Emails from Kathy Muncey from December 5&6, 2021 RE: 17 Landing Road, Duxbury, MA
- Memo RE: Endorsement of ANR Plan for Land Swap Between 9 & 17 Landing Road from Attorney Kathleen P. Muncey dated January 24, 2022
- Land Court Decision on Norton Case, dated May 10, 2004 (used as an example in 9 & 17 Landing Road ANR discussion)
- Hawthorn Hill (334 & 340 St. George Street) Definitive Subdivision Plan revised through November 24, 2021
- Draft Hawthorn Hill Planning Board Covenant