



Town of Duxbury Massachusetts

Planning Board

TOWN CLERK
2021 FEB 10 AM 9:40
DUXBURY, MASS.

Minutes 1/25/2021

The Planning Board met on January 25, 2021 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. Viewers can visit www.pactv.org/duxbury for information about Duxbury programming. To watch replays of a meeting, visit www.pactv.org/duxbury or to watch online visit PACTV's Video on Demand at www.pactv.org/ondemand.

NO IN-PERSON ATTENDANCE OF MEMBERS OF THE PUBLIC WAS PERMITTED.

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. The public was able to watch the zoom webinar by clicking on the following link:
<https://us02web.zoom.us/j/85277898854?pwd=R0NESWVKZ2JidmJTaDVleW5CZG52dz09>.

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

Absent: David Uitti, Clerk; and Jennifer Turcotte.

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

Mr. Casagrande called the meeting to order at 5:02 PM.

The Board took a moment of silence for Shawn Dahlen, who passed away recently.

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

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Open Forum

Ms. Ladd Fiorini said she has to leave the meeting early because she has to attend a Board of Selectmen executive session at 6PM.

Ms. Ladd Fiorini told the Board that she is running for a spot on the Board of Selectmen. Mr. Casagrande congratulated her.

Mr. Glennon, as liaison to the Open Space Committee, said that at the Committee's last meeting, there was discussion about the proposal for funding the engineering for the signalized intersection improvements at Exit 20 (previously Exit 10), and there is strong support.

Mr. Glennon asked Ms. Massard if the Board can do anything to assist her in the upcoming public information meetings run through the Senior Center. Ms. Massard said these meetings will be about different topics and tomorrow night's meeting is a general question and answer session about the Master Plan. She said other topics will include Little Living, the Complete Streets Plan, and virtual tours. She said Board members can attend these meetings if they are interested, and they are welcome to do introductions and participate, and they can sign up through the Senior Center newsletter and information is on the Senior Center calendar.

Public Hearing, Annual Town Meeting 2021: FEMA Article

Motion: Mr. Glennon made a motion to open the public hearing, the notice having been read into the record by the Chair (Mr. Casagrande). Mr. Wadsworth provided a second.

Vote: Mr. Glennon – Aye; Ms. Ladd Fiorini – Aye; Mr. MacDonald – Aye; Mr. Wadsworth – Aye; and Mr. Casagrande – Aye.

The public hearing was opened at 5:12PM.

Ms. Massard asked members of the public to keep their microphones muted as the Board speaks. Ms. Massard said FEMA came to the Cape Cod Watershed in 2018 with new inland maps that reflect new data from a flyover that is more accurate than the previous maps. She said fewer than 5 properties in Duxbury are getting closer to flood zones, while several properties are moving away, and the owners of these properties were notified by certified mail. She said the maps are on the Town website and on FEMA's website. She said the Town has to adopt the new maps to qualify for flood insurance and for the Town to qualify for FEMA funding.

Ms. Massard said the maps are the same that were brought to Town Meeting last year before it was postponed due to COVID-19 delays. She said the State added extensive zoning language to be adopted with the new maps this year. She said the proposed zoning does not change any existing standards or exceptions, but is re-arranged somewhat to incorporate the mandatory language. She said the article is to replace this section of the Zoning Bylaws, and the red-lined version is available online for those who wish to review the edits at this level. She said the

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zoning references the Letter of Map Revision that was adopted in January of 2020 in order to ensure that users are aware of that revision.

Mr. Casagrande asked if the new zoning language is standard. Ms. Massard said MEMA and DCR gave Towns the language that needs to be adopted, and that DCR has approved the language and it has been reviewed by Town Counsel. Mr. Casagrande noted that the Board brings forward FEMA articles to Town Meetings almost every year.

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

Vote: Mr. Glennon – Aye; Ms. Ladd Fiorini – Aye; Mr. MacDonald – Aye; Mr. Wadsworth – Aye; and Mr. Casagrande – Aye.

The public hearing was closed at 5:21PM.

Mr. Glennon said the Town needs to adopt these changes.

Motion: Mr. Glennon made a motion to recommend the article favorably to Annual Town Meeting. Mr. MacDonald provided a second.

Vote: Mr. Glennon – Aye; Ms. Ladd Fiorini – Aye; Mr. MacDonald – Aye; Mr. Wadsworth – Aye; and Mr. Casagrande – Aye.

Invoices

Motion: Ms. Ladd Fiorini made a motion to approve Amory Engineers invoice #15534A in the amount of \$296.00 for Evergreen Terrace. Mr. Wadsworth provided a second.

Vote: Mr. Glennon – Aye; Ms. Ladd Fiorini – Aye; Mr. MacDonald – Aye; Mr. Wadsworth – Aye; and Mr. Casagrande – Aye.

Motion: Ms. Ladd Fiorini made a motion to approve Amory Engineers invoice #15534B in the amount of \$222.00 for Dogwood Drive. Mr. MacDonald provided a second.

Vote: Mr. Glennon – Aye; Ms. Ladd Fiorini – Aye; Mr. MacDonald – Aye; Mr. Wadsworth – Aye; and Mr. Casagrande – Aye.

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Motion: Mr. Glennon made a motion to approve minutes from January 11, 2021 as written. Ms. Ladd Fiorini provided a second.

Vote: Mr. Glennon – Aye; Ms. Ladd Fiorini – Aye; Mr. MacDonald – Aye; Mr. Wadsworth – Aye; and Mr. Casagrande – Aye.

Public Hearing, Annual Town Meeting 2021: Citizens Petition (Building Height)

Motion: Mr. Glennon made a motion to open the public hearing, after the notice was read into the record by the Chair (Mr. Casagrande). Mr. MacDonald provided a second.

Vote: Mr. Glennon – Aye; Ms. Ladd Fiorini – Aye; Mr. MacDonald – Aye; Mr. Wadsworth – Aye; and Mr. Casagrande – Aye.

The public hearing was opened at 5:26PM.

Mr. Casagrande said residents are having to raise properties to comply with FEMA flood code. Ms. Massard said there was no reference to the Zoning Bylaws in the language that was submitted, but she and the Town Manager decided to bring the article to Town Meeting as a zoning article to cover all the bases.

Paul Brogna, resident of 90 Humphrey's Lane, member of the Seawall Committee and owner of Seacoast Engineering Co. was in attendance to discuss the citizen's petition that he submitted. He said he initially had no financial interest, but he is now working on raising a home on Ocean Road North since about two weeks ago. He said the citizen's petition is for the Town to modify the Bylaw similar to Marshfield and Scituate to accommodate for building on the waterfront in flood zones. He said he had spoken with the previous Director of Municipal Services, Scott Lambiase, about this last year, but it was pushed back because they were told they needed a citizen's petition by the Board of Selectmen and COVID-19 delayed the process.

Mr. Brogna said several homes used to have first floor ocean views, but those views have been impeded because of the construction of the seawall. He said some of these property owners may not be able to raise their house due to 30-foot height restriction, and the ZBA generally does not grant variances for this kind of project. He said the Seawall Committee is in favor of the article.

Mr. Casagrande said he understands the issue, and the Board has been contemplating how to address these areas, so these non-conforming issues do not continue. He said his concern is that if it is written as stated in the Bylaw, it may cause issues with other areas of Town in flood zones that are on the waterfront, and not on the waterfront, including such areas as King Caesar Road and Powder Point Road, and roof heights could be up to or exceeding 50 feet – further review is needed. He said the Board would be happy to take up this issue with the zoning recodification process, which will be brought forward at the 2022 Annual Town Meeting.

Mr. Glennon said he agrees with Mr. Casagrande. He told Mr. Brogna the Board finished the Comprehensive Plan last year, and they are now rewriting the Zoning Bylaws using the Comprehensive Plan as a guide. He said this citizen's petition may exacerbate existing problems they are trying to fix regarding non-conforming properties. He said that zoning "protects

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residents from their neighbors” and there becomes a point where too much massing becomes an issue. He said he is worried about the effect this may have on surrounding houses in the waterfront area. He said this issue should be addressed, but he does not believe that this is the correct way to deal with it.

Ms. Ladd Fiorini said she agrees with Mr. Casagrande and Mr. Glennon. She said the issue needs a comprehensive review and look at how it will affect other property owners in Town.

Ms. Massard said she has received four letters of support from residents, who have referred to what Scituate and Marshfield have done in their zoning. She said the FEMA 2012 maps had an error that were resolved with the Letter of Map Revision adopted by Marshfield and Duxbury, but not by Scituate. The Town of Marshfield’s zoning language regarding building height on this topic refers to the 2012 maps only, so the new zoning language was adopted to supersede the errors. She said Scituate has extensive language about massing in their bylaw and they have a different measure of height than Duxbury. She said Scituate chose not to adopt the new maps because the old maps benefit them.

Ms. Massard said that staff has spoken to local architects and we have willing volunteers to test drafts to see what will with possible alternatives to be discussed throughout the year.

Mr. Brogna said he wants homeowners to be able to raise their homes as soon as possible.

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

Vote: Mr. Glennon – Aye; Ms. Ladd Fiorini – Aye; Mr. MacDonald – Aye; Mr. Wadsworth – Aye; and Mr. Casagrande – Aye.

The public hearing was closed at 5:57PM.

Ms. Ladd Fiorini left the meeting at 5:57PM.

Mr. Casagrande said he was not aware that people in these areas were concerned about the issue. Mr. Glennon said he appreciates that Mr. Brogna brought this issue forward because it tells the Board that it is something in the Bylaw that needs to be considered. He said the Board will work on this and other zoning issues within the next year.

Mr. Wadsworth said he is interested in what the adoption of this article would mean for roof heights.

Motion: Mr. Glennon made a motion to respectfully recommend disapproval of the article to Town Meeting. Mr. MacDonald provided a second.

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Vote: Mr. Glennon – Aye; Mr. MacDonald – Aye; Mr. Wadsworth – Aye; and Mr. Casagrande – Aye.

Mr. Brogna said he has another comment about something that was discussed earlier in the meeting. Ms. Massard said it was discussed in the Open Forum. Mr. Brogna said the Highway Safety Committee, on which he serves, discussed Exit 20 (previously Exit 10) at their last meeting, and they are in support of funding the engineering of the signalized intersection improvements at Town Meeting. He said they will be asking the Police and Fire Departments to get accident reports to bring to Town Meeting so that costs of not addressing the issue are known.

Mr. Glennon asked if the Highway Safety Committee obtained any cost information from EMS responding to incidents at this intersection. He stated that such costs are likely to decrease after signals are installed. Mr. Brogna said he will investigate this.

Ms. Massard said that if the Town does not begin engineering in 2021, the signalized intersection project will drop out of the Transportation Improvement Plan (TIP), and the new legislation that the Governor recently signed made Duxbury ineligible to get funding from the other source.

ZBA Referral, Special Permit: 221 Washington Street (ZBA Case #2020-27)

Deborah Keller from Merrill Engineers was in attendance to discuss the project. Ms. Keller said the homeowners are reconfiguring the kitchen, so the house is becoming four feet wider on the Friendship Lane side of the driveway. She said it is a pre-existing, non-conforming property on the setback to Friendship Lane, which is a private lane, with a Right of Way (R.O.W.) less than 40 feet and lot coverage. She said they have received two letters of support from neighbors of the property. She said the lot coverage is increasing from 16.4 to 16.8 percent.

Mr. Casagrande said the property will end up with two street setbacks since it is a corner lot, but Friendship Lane is small and there are only a few houses on it.

Mr. Glennon said he is inclined to defer to the ZBA, and noted that it is a modest request as compared to many of the referrals that the Board has reviewed over the years. Mr. Casagrande said the Board tends to defer, but they do not see any large zoning issues.

Motion: Mr. Glennon made a motion to defer to the ZBA the special permit request of 221 Washington Street. Mr. MacDonald provided a second.

Vote: Mr. Glennon – Aye; Mr. MacDonald – Aye; Mr. Wadsworth – Aye; and Mr. Casagrande – Aye.

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Other Business

Ms. Massard said she got a call from the Westermans who live next to the recently-approved Evergreen Terrace subdivision. They are asking that an Approval Not Required (ANR) plan, showing that they will be receiving a small portion of land with fence on it from the subdivision developer, be processed tonight if possible – it is not on the agenda. During the survey of the subdivision, the developer found that the Westermans' fence around the pool encroaches onto subdivision land, so the developer intends to convey that additional land to the Westermans to eliminate the encroachment. Ms. Massard was advised that the small parcel of land to be conveyed is not essential to the building lot from which the parcel would be created. Ms. Massard said the Westermans are selling their house, and she asked the Board if they would be comfortable reviewing the ANR plan tonight – she displayed the plan, which has not been filed with the Town yet, but which she has reviewed.

Mr. Glennon asked if they need to expedite the process because of title issues, and Ms. Massard confirmed that there appears to be an imminent real estate transaction of some kind. Mr. Casagrande asked if it is necessary to get the Board's permission given recent case law allowing an ANR plan to go to record without Planning Board approval, and Ms. Massard said they do not need the Board's signature to go to record because of that case law. Mr. Glennon asked if the lot from which the land is being taken away will still meet the minimum lot size. Ms. Massard said yes, 1.59 acres will remain of Lot A. Ms. Massard said the plan just clears up the issue with the fence.

Mr. Glennon said he is not comfortable voting on the plan if it is not on the agenda, and in light of the option to go to record without Planning Board approval, the matter could be resolved without Board action tonight.

ADJOURNMENT

Motion: Mr. MacDonald made a motion to adjourn at 6:31PM. Mr. Wadsworth provided a second.

Vote: Mr. Glennon – Aye; Mr. MacDonald – Aye; Mr. Wadsworth – Aye; and Mr. Casagrande – Aye.

The next Planning Board meeting will take place on Monday, February 8, 2021 at 5:00 PM via Zoom.

Materials reviewed at the meeting:

- January 25, 2021 Agenda
- Public Hearing Notice: January 25, 2021
- Final Language - Town Meeting 2021 Flood Zoning: Maps and Bylaw
- Annual Town Meeting 2021 Citizen's Petition
- ZBA Case #2020-27

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- Amory Invoices #15534A & 15534B
- Draft Minutes January 11, 2021
- December 2020 Building Permit Report