



Town of Duxbury  
Massachusetts  
Planning Board

TOWN CLERK  
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DUXBURY, MASS.

## Minutes 2/22/2021

The Planning Board met on February 22, 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](http://www.pactv.org/duxbury) for information about Duxbury programming. 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).

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

Every effort was be 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](mailto: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; Jennifer Turcotte; and George Wadsworth.

Absent: David Uitti, Clerk.

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

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

## **Open Forum**

Mr. Glennon said that at last week's Open Space Committee meeting, representatives of the North and South Rivers Watershed Association noted that they enjoyed coordinating with Ms. Massard on the Snug Harbor culvert study. Mr. Glennon noted that Ms. Massard has done a great job coordinating with many different planning partners on behalf of the Town.

Ms. Ladd Fiorini said the Board of Selectmen adopted an anti-discrimination policy. She said that is something the Planning Board should look into. Ms. Massard said she read in the Clipper that the Board of Selectmen may change its name to the Selectboard and take an antidiscrimination pledge. Ms. Massard said she is currently working with some members of the Wampanoag tribe.

## **Public Hearing: Annual Town Meeting 2021 – Citizen's Petition (Building Permit Notification)**

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

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

The public hearing was opened at 5:10PM.

Richard Brennen, the citizen's petitioner, was in attendance. Mr. Casagrande asked if the article was the same as they reviewed last year. Mr. Brennen said it is his third time bringing this citizen's petition to Annual Town Meeting.

Mr. Brennen said there is currently no notification for abutters if a building permit has been filed. He said abutters currently can find this information online and there is a 30-day appeal period, but they need to know where to look for this information. He said in the past, a developer next to his property performed the work on the development without notifying any of the neighbors, failing to identify the location of his well.

Mr. Brennen said this article will make things better for residents and will not cost the Town anything.

Mr. Casagrande said large developments or special permits have to be reviewed by the Planning Board, Conservation Commission, Board of Health, and the Zoning Board of Appeals. He said this article would require applicants for all building permits for projects in excess of 1,000 square feet to notify abutters, as most projects do not require special permits. He said he has reservations about the article, since most of the permits are issued by-right.

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Kathy Palmer, of 10 Powder Point Avenue, said she thinks notifying abutters is a common courtesy, and it could just be an email notification.

Mr. Glennon said that he understands Mr. Brennen's frustration at what may be perceived as delays regarding the article. He said the Planning Board recently finished the comprehensive plan and is beginning the process of rewriting the Zoning Bylaw, and he would like to avoid making intermittent policy changes in the meantime. He said the Board could consider incorporating Mr. Brennen's idea into the revised Bylaw.

Ms. Ladd Fiorini said she agrees with Mr. Glennon. She said she is in support of the idea, but she thinks it should be a more formal notification. She said she thinks it is a good idea, but it needs a more comprehensive review. Mr. Casagrande said he agrees with Mr. Glennon and Ms. Ladd Fiorini.

Mr. Glennon said that this proposal does not change the existing right of appeal, but simply adds a notification requirement. He said this would help confirm when the 30-day appeal period begins.

Mr. Wadsworth said the Town of Wellesley's building department notifies neighbors when a building permit is issued. Mr. Casagrande said having Town staff send out the notifications could be a better way to ensure that the abutters are notified. Ms. Massard said that since Duxbury's building department went almost completely digital with their files, it would be much easier for staff to send out these notifications than it would be in the past.

Ms. Massard said the Board could put the abutter notification requirement in the Zoning Bylaw rewrite and bring to Mr. Brennen to review before Annual Town Meeting. Mr. Brennen said he appreciates the Board's feedback, but he is going to continue bringing the article to this year's Town Meeting. Ms. Massard said the Board can bring the article back to the next Annual Town Meeting if it does not pass this year.

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

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

The public hearing was closed at 5:35PM.

Mr. Glennon noted the Board is voting on the text of the article as written, not necessarily on the concept itself. Ms. Turcotte asked if the Board needs to vote on the article. Ms. Massard said the Board needed to hold a public hearing for the article and it is recommended that they give a recommendation to Town Meeting.

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Ms. Massard said Jim Wasielewski, Director of Municipal Services, is in support of the idea but is not in support of the wording.

Mr. Casagrande said the Board could make a presentation about the article on the Town Meeting floor.

Motion: Ms. Turcotte made a motion to recommend approval of the citizen's petition to Annual Town Meeting. Mr. Wadsworth provided a second.

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

Mr. Glennon said this vote is on the provided text and not the idea itself, and the Board will make a presentation at Annual Town Meeting. He commended Mr. Brennen for continuing to bring this issue forward.

**ZBA Referral, Special Permit: 65 Samoset Road (ZBA Case #2021-04)**

Mr. Casagrande said the Board has looked at this project before. Ms. Massard said the last time the Board discussed this site, there was a lot of detailed discussion because their neighbors filed an appeal. She said the homeowners filed for a special permit to accommodate the neighbors. The matter before the Board this evening is the detached garage only.

Jed Ruccio, counsel for the applicants, said applicants Anit and Rebecca Patel are seeking a special permit to reconstruct a previously existing, non-conforming garage. He said they are making the non-conformity smaller.

Dr. Patel said the proposed garage is taller than the original structure, to be more in line with the new home. He said they have not increased the non-conformity on the side and rear setbacks. He said every neighbor, besides the Sullivans, have shown support for the project. Mr. Casagrande said there is a reduction in the non-conforming lot area.

Mr. Ruccio said the last time this site was reviewed by the Board, was an appeal for a building permit for the house, and they are now seeking a special permit to build the garage. Ms. Massard said at the meeting for the appeal, concerns about grading and the height of the proposed structure were discussed. Ms. Ladd Fiorini said there was also some discussion about damaged trees.

Charles Sullivan, the direct abutter, said he and his wife, Susan Maycock, offered to review plans with the Patels.

Mr. Casagrande said the proposed garage is smaller inside the setbacks and the height of the structure is increasing.

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Dennis Murphy, counsel for Mr. Sullivan and Ms. Maycock, said they appealed the building permit that was issued for the house and garage. He said the building inspector determined that the garage requires a special permit.

Mr. Murphy said all setbacks are non-conforming for the proposed garage. He said that property owners have three years to rebuild a structure that has been lost by fire, etc., but since the garage was torn down voluntarily it is not applicable. He said there is technically no longer a pre-existing structure at the site since it was demolished before the special permit was filed.

Mr. Murphy said the proposed garage increases the volume of the original structure with the 8 foot height increase. He said the Zoning Bylaw protects the views of residents.

Mr. Glennon restated that Mr. Murphy's argument is that there is no longer a pre-existing structure to consider since the demolition was voluntary. Mr. Glennon said this is an interesting legal argument for the ZBA to consider.

Mr. Ruccio said it is the applicants' position that the structure is a continuing use, and the view the neighbors are experiencing did not exist when the original structure was up.

Mr. Glennon asked the applicants if the concerns of Mr. Sullivan about the height of the proposed garage structure were addressed. Dr. Patel said the overall volume of the structure decreased, but the height of the building increased from the original height of 10 feet to 16 feet.

Mr. Casagrande asked if the first permit was issued for the entire project or if the garage was always separated from the house. Dr. Patel said that the original permit was only for the house, and they got a separate permit to demolish the garage. Mr. Ruccio said they are following the lead of the building commissioner to phase the project.

Mr. Wasielewski showed the Board a drawing of elevations of the existing and proposed garages that were filed with the demolition permit. He said he felt the garage needed a special permit for the volume increase in terms of height. Mr. Casagrande said the Zoning Bylaw does not address volume. Mr. Glennon said the Board asks the ZBA to consider overall volume when reviewing applications.

Mr. Glennon said there is about a six-foot increase in the overall height of the structure.

Dr. Patel said there were trees surrounding the original garage, so there was no view from Mr. Sullivan's property to protect. Mr. Casagrande asked if there are any deeded view rights, and Dr. Patel confirmed that there are no view rights. Mr. Sullivan said there were some mature trees around the original structure, but they did not obscure his view of the ocean. He said the proposed structure will negatively impact the view from his house since it is proposed to be two stories high.

Mr. Glennon noted that the details are important in this matter, and said he does not know if the Board has enough information to make a thoughtful recommendation to the ZBA. He suggested deferring to the ZBA. Mr. Casagrande agreed and said he understands both sides.

Mr. MacDonald said the ZBA needs to determine whether or not the structure is considered a pre-existing structure.

Motion: Mr. Glennon made a motion to defer to the ZBA the special permit application of 65 Samoset Road. Ms. Ladd Fiorini provided a second.

Vote: Keith MacDonald - Aye; Jennifer Turcotte - Aye; Brian Glennon - Aye; Cynthia Ladd Fiorini - Aye; George Wadsworth - Aye; and Scott Casagrande - Aye.

Mr. Glennon suggested to the applicants and abutters that, apart from the legal arguments, they consider working through this matter collaboratively if possible in order to maintain their relationship as neighbors.

### **Invoices**

Motion: Mr. Glennon made a motion to approve Amory Engineers invoice #15549B for Evergreen Terrace in the amount of \$111.00. Ms. Turcotte provided a second.

Vote: Keith MacDonald - Aye; Jennifer Turcotte - Aye; Brian Glennon - Aye; Cynthia Ladd Fiorini - Aye; George Wadsworth - Aye; and Scott Casagrande - Aye.

Mr. Glennon asked Ms. Massard if the Town is satisfied that the dirt control measures are working properly at Evergreen Terrace, since there was a lot of cut-and-fill. He asked if the Town is confident that the slopes are stabilized sufficiently. Ms. Massard said the developer is required to maintain and stabilize the slopes. She said Amory Engineers has been doing a lot of inspections at the site, and the developers are staying within the footprint and they are not seeing any washouts.

### **Minutes**

Motion: Mr. Glennon made a motion to approve the minutes from February 8, 2021 as written. Ms. Ladd Fiorini provided a second.

Vote: Keith MacDonald - Aye; Jennifer Turcotte - Aye; Brian Glennon - Aye; Cynthia Ladd Fiorini - Aye; George Wadsworth - Aye; and Scott Casagrande - Aye.

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### Other Business

Ms. Massard said she is hosting a discussion about “Little Living” tomorrow night through the Senior Center. This will be the second of a multi-program monthly series for the Planning Department to engage with the community.

### ADJOURNMENT

Motion: Ms. Ladd Fiorini made a motion to adjourn at 6:28PM. Mr. MacDonald provided a second.

Vote: Keith MacDonald - Aye; Jennifer Turcotte - Aye; Brian Glennon - Aye; Cynthia Ladd Fiorini - Aye; George Wadsworth - Aye; and Scott Casagrande - Aye.

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

Materials reviewed at the meeting:

- March 8, 2021 Agenda
- Public Hearing Notice February 22, 2021
- Annual Town Meeting 2021 Citizen’s Petition (building permit abutter notification)
- Planning Board Minutes February 26, 2020 (public hearing about the same article from Annual Town Meeting 2020)
- ZBA Case #2021-04: 65 Samoset Road
- Amory Engineers Invoice #15549B
- Draft Minutes February 8, 2021
- January 2021 Building Permit Report/Construction Costs

