



Town of Duxbury Massachusetts Planning Board

TOWN CLERK
2024 MAR 13 AM 8:39
DUXBURY, MASS.

Minutes 1/8/2024

The Planning Board met on January 8, 2024 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 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; Wayne Dennison (attending remotely); Allison Shane; Jennifer Turcotte, and David Uitti.

Absent: Keith MacDonald, Clerk.

As Mr. Dennison was participating remotely, all votes were taken via roll call.

Mr. Casagrande called the meeting to order at 6:03PM.

Open Forum

Ms. Rappe asked staff who the current Planning Board representative for the Metropolitan Area Planning Council (MAPC) is in the absence of the Town Planner. Staff will check on this and relay this information back to the Board.

Administrative Items

Minutes

Motion: Ms. Rappe moved to approve the minutes of November 27, 2023 as written. Seconded by Ms. Shane.

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

PLANNING BOARD MINUTES

Date: January 8, 2024

Page 2 of 10

Vote: Mr. Uitti – Aye; Ms. Rappe – Aye; Mr. Casagrande – Aye; Ms. Shane – Aye; Ms. Turcotte – Aye; and Mr. Dennison – Aye.

ZBA Cases #2023-21 & #2023-22: 0 Tobey Garden Street

Dan Gorman, representing the applicants, was in attendance to discuss the proposal.

Mr. Casagrande stated that the Planning Board is just a referral board to the Zoning Board of Appeals. Ms. Rappe stated that since this is mainly a legal issue, she is interested in hearing the opinion of the attorneys on the Board.

Mr. Casagrande stated that the properties were created when Tobey Garden was taken by the Town in 1954 and the land was divided into two non-conforming lots. He said his understanding is that the zoning in place at the time the subdivision occurred is the zoning that governs the lots that were created, and in 1954 the requirements for buildable lots were 20,000 square feet in area and 100 feet of frontage. He said the lots do not meet the lot area or frontage requirements from 1954, so he does not think they should be “grandfathered” into allowing the lot to be buildable.

Mr. Gorman stated that at the time of the taking, the lot owners were compensated no less than the neighboring owners who were not affected by the taking. He said the two triangular lots that were created were the only lots that were left non-conforming by the taking, and it was concluded that the lots did not suffer a loss of valuation. He explained that the Northern lot created by the taking (Parcel #075-020-002) is also non-conforming, but it was built upon after the taking so the applicants concluded that they were probably granted a variance. He said his argument is that if the other lot was granted a variance, the other lot should be granted a variance as well.

Mr. Casagrande said it is very important to see if a variance exists for the Northern lot. Mr. Uitti stated that the decision to grant a variance is an issue that is up to the ZBA’s discretion.

Motion: Mr. Uitti moved to recommend that the argument on grandfathering be denied and to defer to ZBA and Town Counsel for the variance request. Seconded by Ms. Turcotte.

Mr. Dennison clarified that one case is an appeal of the building inspector’s determination that the lot was not “grandfathered” into the zoning of the time the lot was created, and the other case is a request for a variance.

Motion: Mr. Uitti revised his motion to defer the cases to the ZBA, with the recommendation that the Appeal of the Building Inspector’s Determination be denied, and to defer judgement to the ZBA and Town Counsel for the Variance request. Seconded by Ms. Turcotte.

Vote: Mr. Uitti – Aye; Ms. Rappe – Aye; Mr. Casagrande – Aye; Ms. Turcotte – Aye; Ms. Shane – Aye; and Mr. Dennison – Abstained.

ANR #2023-13: 275 & 285 West Street

The Board discussed the plan and noted that the plan is showing an equal exchange of land and does not make either of the lots non-conforming.

Motion: Ms. Turcotte moved to endorse the plan for 275 & 285 West Street as not requiring approval under the Subdivision Control Law. Seconded by Ms. Rappe.

Vote: Ms. Rappe – Aye; Mr. Casagrande – Aye; Ms. Shane – Aye; Ms. Turcotte – Aye; Mr. Dennison – Aye; Mr. Uitti – Abstained.

6:00PM Public Hearing: 333 & 0 Franklin Street Subdivision

Mr. Casagrande stated that he will be abstaining from the hearing.

Motion: Mr. Uitti moved to waive the reading of the public hearing notice. Seconded by Ms. Turcotte.

Vote: Mr. Uitti – Aye; Ms. Rappe – Aye; Ms. Shane – Aye; Ms. Turcotte – Aye; Mr. Dennison – Aye.

Motion: Mr. Uitti moved to open the public hearing at 6:08PM. Seconded by Ms. Turcotte.

Vote: Mr. Uitti – Aye; Ms. Rappe – Aye; Ms. Shane – Aye; Ms. Turcotte – Aye; Mr. Dennison – Aye.

Scott Fanara and Rick Grady, Grady Consulting LLC, were in attendance to discuss the project.

Mr. Fanara gave a presentation introducing the project to the Board. It is a proposed three lot subdivision on about 6.5 acres of land. There is an existing house and leeching field that the developers are planning on retaining. The existing leeching field will be used for the new lot. There will be minimal tree removal, focused mainly at the front of the property to make an opening for the new road. The water on the property currently drains from the middle of the lot out to the wetland and also flows to the abutters and to Franklin Street.

Mr. Fanara explained that the proposed conditions include a 180-foot roadway, as dictated by the Fire Department, and will remain private. There will be a new septic system put in for the existing house on the lot. There will be public water and electric.

Mr. Fanara explained that the stormwater runoff will decrease at the site. They will be installing subsurface drainage structures and a rain garden to collect the runoff. They are asking for a waiver from the Planning Board Rules and Regulations to allow an easement for the drainage basin, rather than creating a separate lot. Mr. Fanara explained that they could create a separate

PLANNING BOARD MINUTES

Date: January 8, 2024

Page 4 of 10

lot, but they decided to put the drainage basin in its proposed location because there is existing natural screening from neighbors.

The Board discussed the reuse of the existing septic system on the site, and reminded the applicant that they will need to comply with Title 5 requirements.

Peer-review engineer for the Board, Pat Brennan of PGB Engineering, LLC, told the Board he submitted a letter dated January 3, 2024 based on the revised plans submitted by the applicants. Mr. Brennan said the applicants addressed most of the comments from his first letter in their revised plans.

Mr. Brennan explained that one of his recommendations was that the road remain private in perpetuity. He explained that the Department of Public Works has rejected hammerhead turnarounds in the past and there are no public utilities within the road. He further explained that several waivers are required to construct the road.

Mr. Brennan explained that one of the waivers is for the inclusion of a 50-foot buffer next to the drainage basin. The maintenance of the drainage basin will be handled by the Homeowner's Association since the road is remaining private.

Ms. Rappe asked if there is another way to offer a buffer for the drainage basin. Mr. Fanara stated that they are retaining existing trees, but the basin needs to be in the proposed location so it can collect water from the roadway.

Ms. Shane asked about the fire hydrant comment in the Fire Department's memo dated December 7, 2023. Mr. Fanara said they are not proposing to remove any hydrants.

Mr. Uitti told the applicants that the Board has received several complaints from neighbors about the effects of stormwater flow in the area. Mr. Uitti requested that Mr. Fanara explain what the firm is doing to deal with stormwater runoff.

Mr. Fanara explained that runoff can be increased when grass or trees are replaced with a hard surface. He said the stormwater will be fully infiltrated on site in an infiltration chamber. The runoff from the driveways will be held in rain gardens. He said the existing runoff flow rate and volume will be decreased by the stormwater management on site.

Mr. Uitti asked Mr. Fanara to explain how Grady Consulting went about assessing the existing stormwater and stormwater calculations. Mr. Fanara explained that these analyses are dictated by the Massachusetts Department of Environmental Protection (MassDEP). They look at the grades for the existing conditions, identify areas where the rainwater is going, calculate the areas of roadways, grass, woodlands, driveways, etc. and calculate the existing runoff flow. He said they look to maintain the natural flow of the roadway, and make sure that they are not increasing any runoff.

PLANNING BOARD MINUTES

Date: January 8, 2024

Page 5 of 10

Mr. Uitti stated that the analyses are prescribed by stormwater management practices, and the Town's peer-review engineer also does these calculations to make sure that they are in compliance with State laws.

Mr. Brennan said the Planning Board Rules & Regulations go further than State law in terms of stormwater, and do not allow the rate or volume of runoff to be increased. He said stormwater is the first thing he reviews with these applications, and what he pays the most attention to.

Mr. Uitti confirmed with the applicants that they are requesting two waivers. Mr. Dennison asked if discretionary approval is standard for subdivision filings. Mr. Uitti said given the fact that the applicants are requesting waivers, that allows the Board to impose conditions as quid pro quo for allowing those waivers. Mr. Uitti explained that if applicants meet all the Subdivision Rules & Regulations, they can proceed as-of-right.

Mr. Fanara explained that the other requested waiver is to allow the drainage basin to be an easement rather than a separate lot. The second waiver to allow the applicants to not provide a 50-foot buffer of existing vegetation and adjacent properties.

Ms. Turcotte explained that historically, if the applicant can demonstrate that the design can be completed without the waivers but the waivers improve the design, the Planning Board tends to grant the waivers. Ms. Turcotte asked if there is a way that the applicants could provide the 50-foot buffer, and Mr. Fanara said they would have to look into this further.

Rick Grady said that his understanding of the way that the Bylaw reads that a 50-foot buffer between pre-treatment facilities and adjacent facilities, so he is not sure if rain gardens are included in this. Mr. Brennan said this waiver was not needed for Cooper Hill or Parkside Subdivisions, but Hawthorn Hill did request this waiver and the Board granted to waiver reducing the buffer from 50-feet to 20-feet.

Mr. Uitti asked Mr. Fanara to explain the requirements for wetlands on the site. Mr. Fanara explained that per the Conservation Commission's Bylaws, they are not allowed to build within a 100-foot buffer from wetlands.

Public Comments

Jill Stiles, 293 Franklin Street, stated that the water that goes into the pond goes across the street and expressed concerns with any more water being added to the pond.

Mr. Fanara explained that the water will be infiltrated into the ground so the water going into the pond will be reduced. He said there will be a 10-foot drop from the roadway down to the pond.

Jessica Siler, 343 Franklin Street, stated that when she and her husband bought the house in 2017, they were told by the realtor that the lots would never be built upon because there is not enough frontage. She explained that their driveway and front yard consistently floods when there

PLANNING BOARD MINUTES

Date: January 8, 2024

Page 6 of 10

are rainstorms. Ms. Siler asked how many trees will be taken down, and expressed concerns with any potential impacts to spotted salamanders and other wildlife in the area. She stated that they would like to get their own engineer to evaluate the site.

Mr. Fanara said they are not clearing up to the lot line. He stated that the Subdivision Rules & Regulations require that the pond is drawn down in 72 hours.

Mr. Uitti explained to the public that Subdivision Control Law, Subdivision Rules & Regulations, and other applicable State laws control what is required of the applicant. He explained that the Town hires their own engineer to make sure that the applicant is following the rules, and for this project they hired Pat Brennan to analyze the project to make sure all the rules are followed in terms of stormwater management, etc. Mr. Uitti stated that the abutters can obtain their own engineers to double check the information.

Pat McLaughlin, 347 Franklin Street, said the house is on the bottom left of the plan and said their house is not shown on the plans. She said they have had a sink hole on their property for the past few years and their driveway floods every year. Ms. McLaughlin expressed concerns that climate change is not changing these plans, and concerns about what is happening to the houses in the back.

Kathleen Scribi, 30 Windward Way, said Franklin Street is dangerous, as there is a lot of traffic, a bus stop, and people exceeding the speed limit. She expressed concerns with adding any more traffic to the area.

Jim Lavanaugh, 364 Franklin Street, asked if they are changing the elevations for the two new properties and which trees will be removed or replaced. Mr. Fanara said there will be quite minimal grading. He explained that one of the requirements of the Planning Board Subdivision Rules & Regulations is to identify trees 12 inches or greater within the Right-of-Way. He said they are maintaining all the trees along the fence line next to the drainage basin, and they are removing a few within the Right-of-Way.

Nick Panagiotopoulos, 358 Franklin Street, said his driveway is right across the street from the proposed development, and asked Mr. Fanara to explain the drainage coming off the end of the street and to explain the scope of runoff and stormwater analysis. Mr. Fanara said they are not proposing too much grading at the end of the road. He explained that they will be creating a low point to capture runoff. Mr. Fanara explained that the runoff that goes back out to Franklin Street will decrease. He informed the abutters that they look at the existing conditions and flow patterns and break them into catchment areas, and State and Town Bylaws require that runoff going off site is not increased.

Sue Shillito, 350 Franklin Street, asked whether the existing leeching field on site will be removed and redone or if it will stay at the existing height. Mr. Fanara explained that the existing leeching field currently serves 333 Franklin Street, and they are planning to break the

PLANNING BOARD MINUTES

Date: January 8, 2024

Page 7 of 10

connection, and a new septic will go into the existing leeching field. He said the elevation will stay the same.

Mr. Fanara said that for the new dwelling, the top of the foundation is at elevation 68ft, there will be minimal grading to fit the driveway into the garage but they will likely use the excavated material from the foundation.

Mr. Dennison read Kerri Nagle's, 360 Franklin Street, comments from the Zoom chat that state that she was told when she bought this property, she was told that this lot would never be built upon. She said this area of Town, Crooked Lane, is known for its open space and she thinks putting more housing here is a bad idea.

Jill Stiles, 293 Franklin Street, asked what will be done about water running down to the lower land. Mr. Fanara responded that they look at the volume and rate of flow, and they are proposing new stormwater facilities.

Alan Siler, 343 Franklin Street, said there is a barn right behind the leeching field and the pond that collects a lot of water. Mr. Siler informed the Board that they would like to hire their own engineer to survey the site.

Timothy Stiles, 293 Franklin Street, said his brother-in-law's pasture is to the right of the plan and he has been there for 22 years and never had rain on his front lawn until this year. He said there is a corner of the lawn that he cannot mow occasionally because it is under water.

Jill Stiles, 293 Franklin Street, asked how do they deal with other water issues that are occurring in the area, such as a clogged culvert. The Board responded that the Department of Public Works can assist with these problems.

Ron McLaughlin, 347 Franklin Street, expressed concerns about new trees getting cut down by the new property owners.

Kathleen Scribi, 30 Windward Way, asked if the developers have any sense how much property they are clearing and how long the construction would last. Mr. Fanara said he believes the roadway construction would occur this year if possible, and then build one house at a time around 2025.

Motion: Mr. Uitti moved to close the public hearing at 7:39PM. Seconded by Ms. Turcotte.

Mr. Dennison stated that he opposes closing the public hearing and suggested that the Board continue the public hearing so interested homeowners have time to hire their own engineers.

Motion: Mr. Dennison moved to continue the public hearing to February 12, 2024. Seconded by Ms. Turcotte.

PLANNING BOARD MINUTES

Date: January 8, 2024

Page 8 of 10

Vote: Mr. Uitti – Aye; Ms. Rappe – Aye; Ms. Shane – Aye; Ms. Turcotte – Aye; and Mr. Dennison – Aye.

ATM2024 Recommendation: Relocation of the Layout of Washington Street as a Town Way

Motion: Ms. Turcotte moved to recommend approval of the relocation of the layout of Washington Street as a Town way. Seconded by Ms. Rappe.

Vote: Mr. Uitti – Aye; Ms. Rappe – Aye; Mr. Casagrande – Aye; Ms. Shane – Aye; Ms. Turcotte – Aye; and Mr. Dennison – Aye.

Discussion: Nash Road Plantings

Ms. Rappe told the Board that she has a friend who is a homeowner on Nash Road who wanted to improve upon the plantings shown on the approved site plan. In talking with the homeowners, they are concerned that they may have inadvertently changed the site plan with the plantings.

The Board discussed the issue and agreed that the plantings are likely an improvement upon the plan. They suggested that the homeowners discuss the issue with the builder and the builder can bring forward any revisions to the site plan if they feel it is necessary.

Other Business

Mr. Uitti informed the Board that his term is up in March and he will not be running for another term.

Ms. Rappe thanked Mr. Uitti for his assistance with informing the public of the public hearing process.

Adjournment

Motion: Mr. Uitti moved to adjourn at 7:51PM. Seconded by Ms. Turcotte.

Vote: Mr. Uitti – Aye; Ms. Rappe – Aye; Mr. Casagrande – Aye; Ms. Shane – Aye; Ms. Turcotte – Aye; and Mr. Dennison – Aye.

Materials reviewed at the meeting:

- January 8, 2024 Agenda

PLANNING BOARD MINUTES

Date: January 8, 2024

Page 9 of 10

- Public Hearing Notice – 333 & 0 Franklin Street
- Draft November 27, 2023 Minutes
- ZBA Case #2023-21: 0 Tobey Garden
- ZBA Case #2023-22: 0 Tobey Garden
- ANR #2023-13: 275 & 285 West Street
 - ANR Application & Checklist
 - Plan entitled “Plan of Land 275 & 285 West Street Duxbury, Mass.,” prepared for Jonathan & Patricia Ruttgers and Mark & Jessica Marinelli; prepared by Holland Survey, LLC, 52 Lot Phillips Road Kingston, MA; dated October 16, 2023; scale 1” = 30’; one sheet
- 333 & 0 Franklin Street Subdivision
 - Definitive Subdivision Application & Checklist, received November 28, 2023
 - Plan entitled “Definitive Subdivision Plan #333 Franklin Street Duxbury, Massachusetts,” prepared for PB&J Real Estate LLC, P.O. Box 1410 Duxbury, MA 02332; prepared by Grady Consulting, L.L.C., 71 Evergreen Street, Suite 1 Kingston, MA 02364; dated November 22, 2023; scale 1” = 40’; eight sheets
 - Environmental Impact Assessment and Evaluation Statement, received November 28, 2023
 - Letter RE: Definitive Subdivision Plan – 333 Franklin Street, Applicant: PB&J Real Estate LLC dated November 29, 2023
 - Stormwater Management Design Calculations dated November 22, 2023
 - Plans entitled “Tributary Area Plan #333 Franklin Street Duxbury, Massachusetts,” prepared for PB&J Real Estate LLC, P.O. Box 1410 Duxbury, MA 02332; prepared by Grady Consulting, L.L.C., 71 Evergreen Street, Suite 1 Kingston, MA 02364; dated November 22, 2023; scale 1” = 40’; one sheet
 - Certified Abutters List
 - PGB Engineering, LLC Report RE: 333 Franklin Street – Definitive Subdivision dated November 30, 2023
 - Fire Department Memo dated December 7, 2023
 - Email from Building Commissioner RE: Review Request – New Subdivision Filing, dated December 11, 2023
 - Email from Health Agent RE: Review Request – New Subdivision Filing, dated December 11, 2023
 - Plan entitled “Definitive Subdivision Plan #333 Franklin Street Duxbury, Massachusetts,” prepared for PB&J Real Estate LLC, P.O. Box 1410 Duxbury, MA 02332; prepared by Grady Consulting, L.L.C., 71 Evergreen Street, Suite 1 Kingston, MA 02364; dated November 22, 2023 and revised through December 19, 2023; scale 1” = 40’; eight sheets
 - Grady Consulting, L.L.C. Letter RE: Definitive Subdivision Plan – 333 Franklin Street, Applicant: PB&J Real Estate LLC, dated December 18, 2023
 - Stormwater Management Design Calculations revised through December 18, 2023
 - PGB Engineering, LLC Report RE: 333 Franklin Street – Definitive Subdivision, dated January 3, 2024

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PLANNING BOARD MINUTES

Date: January 8, 2024

Page 10 of 10

- Email from Alan Siler RE: 333 Franklin Street Inquiry, dated December 22, 2023
- Email from Jill Stiles RE: proposal, dated January 4, 2024
- Email from Michael & Patricia McLaughlin RE: Definitive Subdivision Plan #333 Franklin St., dated January 4, 2024
- Email from Jeffrey Chandler RE: Franklin at. housing, dated January 5, 2024
- Email from Vincent Scribi RE: Opposition to 333 Franklin St. subdivision! dated January 7, 2024
- Email from Jillian Scribi RE: Opposed to 333 Franklin Street development, dated January 7, 2024
- Email from Cheryl Ann Christensen-Baker & Cody Baker RE: 333 Franklin Street Proposed Development (Parcel #052-012-004) and 0 Franklin St. (Parcel #052-011-001), dated January 5, 2024
- Washington Street Relocation Plan
 - Staff Memo: Washington Street Plan, dated December 7, 2023
 - Selectboard Memo RE: Relocation of Layout of Washington Street, dated November 21, 2023
 - Plan entitled “Relocation Plan Washington Street Duxbury, Massachusetts,” prepared for Environmental Partners, 1900 Crown Colony Drive Quincy, MA 02169; prepared by Merrill Engineers and Land Surveyors, 427 Columbia Road Hanover, MA 02339; dated August 18, 2023; scale 1” = 20’; 18 sheets
 - Annual Town Meeting Warrant 2022, Article 17 – Design and Survey to Establish Existing Conditions and Layout of Washington Street for Future Sidewalks
 - KP Law Washington Street Selectboard Vote, Letter, and Warrant Article Language
 - Flyer for Open House: Washington Street Right-of-Way Determination