

Duxbury Planning Commission

Meeting Minutes April 12, 2012

Members present: Erica Campbell, Trevor Cole, Brian Fitzgerald, Garrett MacCurtain

Guests: Randy Berno, Jodi Carpenter, Al Quesnel, Doug Weber

The meeting was called to order at 6:31 p.m. by Brian Fitzgerald

Minutes: The minutes of the March 8, 2012 meeting were approved as written.

Zoning Regulations Amendment: Brian had distributed to commission members proposed changes in the regulations (attached) that would allow the Zoning Administrator to approve boundary line adjustments. Those present were comfortable with the proposed changes. There was discussion of approval of the plats by the DRB – could that responsibility be given to the Zoning Administrator for lot line adjustments. Brian will follow up on that issue. Al agreed to pass the proposed language by his contact at the Vermont League of Cities and Towns for feedback. Brian explained that once we have final language to propose, we'll notice a public hearing to take public comment before forwarding the proposed amendment to the Selectboard.

North Moretown Traffic Study: The regional planning commission has scheduled a final public meeting on April 18 for the consultant to present her findings and recommendations for improvements to the Vermont 100/U.S. 2 intersection in North Moretown. The three alternatives to be presented are: traffic signal, traffic signal with right-turn lane for U.S. 2 eastbound, and a roundabout. An interim step would be a three-way stop. Those present felt the roundabout is the best solution for the long term. However, there is concern that it is likely to be several years before a roundabout would be developed and there is an immediate need to address the backups on Vermont 100 and pedestrian safety. (The gymnastics academy and performing arts facility behind Juniper's Fare have increased the urgency of providing a safe pedestrian crossing of U.S. 2) A three-way stop, while not ideal, would address these issues at minimal cost. Further, if traffic lights are installed it is unlikely that a roundabout would ever be implemented. Following discussion, Garrett moved and Trevor seconded the following motion: "The Duxbury Planning Commission considers a roundabout with a three-way stop as an interim measure as the best alternative for the Vermont 100/U.S. 2 intersection." The motion passed unanimously. Brian will convey this position at the April 18 meeting and coordinate with Selectboard Chair Dick Charland.

Next Meeting: May 10, 2012 at 6:30 p.m. in the town garage meeting room.

The meeting adjourned at 7:30 p.m.

Minutes by B.T. Fitzgerald

- E. The Regulations may be amended according to the requirements and procedures established in 24 V.S.A. §§ 4441 and 4442.
- F. A finding of the invalidity of any provision by a court of competent jurisdiction, shall not invalidate any other provision of this Regulation.
- G. These regulations became effective on March 7, 2006.

SECTION 3 – GENERAL PERMIT REQUIREMENTS

3.1 PROHIBITION - GENERAL RULE

A person shall not construct, develop, erect, extend, install, modify, use, or occupy any land, building, structure or part thereof, in any manner which is not in conformity with the Regulations.

3.2 PROJECTS AND ACTIVITIES WHICH REQUIRE A ZONING PERMIT

A zoning permit shall be required prior to any land development as defined by statute and Article VI~~H~~ of these regulations, including but not limited to the following activities:

- A. The construction or reconstruction of any building or structure, whether for personal residential, or commercial use;
- B. The installation of a mobile home or trailer, whether for residential or storage purposes, but not including a temporary trailer in use at an operational construction site;
- C. The construction or reconstruction of any accessory structure such as a garage, utility shed or barn;
- D. The enlargement, extension, or relocation of any existing structure, including the construction or enlargement of decks and porches;
- E. The structural alteration of any existing structure if the exterior dimensions will be changed;
- F. The construction of a septic system, except that the repair of a septic system does not require a permit but, must meet the requirements of the Regulations (See Article V, Section 3);
- G. The subdivision of a parcel of land, including lot line adjustments, to ensure that all lots will conform to the minimum lot size and road frontage requirements of this Regulation;
- H. The change of use of any existing structure or parcel of land, except that benign home occupations will not require a permit (See Article V, Section 1-1.4);
- I. Commercial operations,
- J. Gravel or soil excavation,
- K. The installation of a sign, and
- L. All development within the Special Flood Hazard Area, and
- M. The installation of a wind turbine unless preempted by the Vermont Public Service Board, in accordance with Title 30 V.S.A. Chapter 5.

3.3 PROJECTS AND ACTIVITIES WHICH DO NOT REQUIRE A ZONING PERMIT

deficiencies, to the Select Board, with any recommendation or opinion it considers appropriate. Simultaneously with the submission, the planning commission shall promptly file with the clerk of Duxbury a copy of the proposed bylaw, amendment or repeal and the written report for public review.

3. Not less than fifteen (15) days or more than one hundred twenty (120) days after the proposed bylaw, amendment, or repeal is submitted to the Select Board, the Select Board shall hold the first of one or more public hearings. Public hearings shall be conducted in accordance with public notice requirements set forth in Article III, Section 5 of these Regulations.
4. The Select Board may change the proposed ordinance or bylaw, amendment, or repeal but shall not do so less than fifteen (15) days prior to the public hearing. If the Select Board at any time makes substantial changes in the concept, meaning or extent of the bylaw, amendment, or repeal, the Select Board shall reissue public notice for a new public hearing or hearings.
5. The Regulations shall be effective upon the affirmative vote of legal voters of the Town of Duxbury by Australian ballot at a regular or special meeting duly warned and held.
6. Time for action. If the proposed bylaw, amendment or repeal is not approved or rejected within one year of the date of the final hearing of the planning commission, it shall be considered disapproved unless five percent of the voters of the municipality petition for a meeting of the municipality to consider the bylaw, amendment or repeal and the petition is filed within 60 days of the end of that year. In that case, a meeting of the municipality shall be duly warned for the purpose of acting upon the bylaw, amendment or repeal by Australian ballot.

SECTION 2 – ZONING ADMINISTRATOR

2.1 APPOINTMENT

The Duxbury Planning Commission shall nominate and the Select Board shall approve and appoint an Administrative Officer to serve for a term of three (3) years. The Administrative Officer shall administer the Regulations, and shall act in conformance with the Regulation. The Administrative Officer may be removed for cause at any time by the Select Board after consultation with the Planning Commission

2.2 GENERAL RULE

The Administrative Officer may process and issue or deny a Zoning permit, in accordance with the regulations, for projects and activities which do not require Development Review Board approval, as set forth in Section 3 of this Article III below.

2.3 PERMIT APPLICATION PROCESS FOR THOSE ACTIVITIES WHICH DO NOT REQUIRE DEVELOPMENT REVIEW BOARD APPROVAL

1. A Zoning Permit Application may be obtained from the Town Clerk or the Administrative Officer. All applications must be complete and accompanied by the required fee. The Zoning Administrator shall promptly forward those

applications which require Development Review Board approval to the Development Review Board.

2. No later than 30 days after the receipt of a completed zoning permit application, the Administrative Officer shall act to approve or disapprove the zoning permit application. If the Administrative Officer fails to act with regard to an application within thirty (30) days of the determination that an application is complete, a permit shall be issued on the thirty-first day.
3. A zoning permit shall expire if the work described in the permit has not commenced within two years of the date of issuance. The Zoning Administrator may grant a six month extension for good cause. An extension may only be granted once provided there is no change to the project.
4. Within three (3) days of issuing the permit, the Administrative Officer shall provide a copy of the permit to the Duxbury Town Listers and to the Development Review Board of Adjustment; and shall post a copy of the permit at the Town Clerks office. The permit shall remain posted for fifteen (15) days and the permit will not become effective until the fifteen (15) day period has passed.
5. Upon issuing the permit, the Administrative Officer shall direct the applicant to post a copy of the permit within three (3) days of the issuance of the permit, within view of the public right of way most nearly adjacent to the subject property, until the fifteen (15) day appeal period has passed. The applicant is advised that the failure to post the permit may allow an interested party to question the validity of the permit.
6. Each permit shall contain a statement of the period of time during which the permit may be appealed. No permit shall become effective until the time for appeal has run, and if a notice of appeal has been filed a permit shall not become effective until final adjudication.
7. No zoning permit shall be valid until all required state and federal permits are obtained by the applicant.

2.4 CERTIFICATE OF OCCUPANCY

1. No building erected and subject to a permit shall be occupied or used in whole or in part, for any purpose whatever, until a certificate of occupancy is issued by the Administrative Officer, certifying that the construction conforms to the approved plans and specifications, and the requirements of these regulations.
2. The Certificate of Occupancy requirement is not intended to prevent the owner of a residence from extending an approved project over time or engaging in ongoing home improvements, particularly improvements which are cosmetic in nature. This section is intended to prevent the occupation of structures under the following conditions, including but not limited to:
 - a. Structures or uses which are not in compliance with conditional use conditions imposed by the Development Review Board,
 - b. Structures which pose a threat to human health or safety, and
 - c. Structures and uses do not conform with these zoning ordinances and the town plan.

3. Temporary Certificate of Occupancy - Upon request of the owner or his or her authorized representative, the Administrative Officer may issue a temporary certificate of occupancy for part of a building for a time period of up to three years. The Temporary Certificate of Occupancy may be reissued for good cause at the discretion of the Administrative Officer.
4. A Certificate of Occupancy may be revoked or canceled by the Administrative Officer in the event that an owner or occupant is in violation of these regulations.

2.5 LOT LINE ADJUSTMENTS

1. The realignment or relocation of lot boundary lines between existing adjacent lots that have already been divided may be approved by the Zoning Administrator.
2. The following criteria must be met:
 - a. The sale or exchange of parcels is between adjacent property owners;
 - b. No new lots are created;
 - c. The relocation of the lot line does not result in the creation of a non-conforming lot, structure or use; and
 - d. The proposed change does not violate any conditions imposed by prior town approvals.
3. Within 180 days of approval by the Zoning Administrator, the applicant shall submit a survey plat to the Zoning Administrator with the required filing fee for recording in the Town's land records.
 - a. The following language shall be printed on the plat: "Approval of this lot line adjustment does not constitute creation of a separate parcel or lot. It simply adjusts the physical location of the common boundary of the adjoining parcels or lots. Any future subdivision of these parcels or lots must be approved by the Development Review Board."
 - b. In accordance with 24 V.S.A. 4463, the plats must be approved by the Development Review Board after a public hearing.

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SECTION 3 – DEVELOPMENT REVIEW BOARD

3.1 ESTABLISHMENT AND APPOINTMENT OF DEVELOPMENT REVIEW BOARD

1. Development Review Board is hereby established.
2. The Members of the Development Review Board shall be appointed by the Select Board in accordance with 24 V.S.A. §4460. The Select Board shall appoint no fewer than five and not more than nine members to the Development Review Board. The Select Board may also appoint alternate members to the Development Review Board.
3. The Development Review Board shall adopt procedures, adopt rules of ethics with respect to conflicts of interest, conform with open meeting requirements,

and act in conformance with the Regulations and the Act, and 24 V.S.A. §4461 as follows.

- a. Hold public meetings at the call of the chairperson at such times as the Board determines.
 - b. All meetings shall be open to the public, except for deliberative and executive sessions.
 - c. The board shall keep minutes of the meetings. The minutes shall indicate the voting record of each member and set forth a record of examinations and other official actions. The minutes shall be filed with the town clerk's office.
4. A quorum is required for official action. A quorum shall constitute not less than a majority of the board.
 5. The board may examine evidence bearing on the matter, administer oaths and take sworn testimony on a matter, and require specific proof.

3.2 DEVELOPMENT REVIEW BOARD POWERS

The Board shall have the following powers:

1. To hear and decide applications for conditional use permits;
2. To hear and approve or deny applications for subdivisions;
3. To approve or deny applications for expansions or alterations of noncomplying structures or uses or, to hear and grant or deny a request for a variance from the literal requirements of the Regulations;
4. Review of right-of-way or easement for land development without frontage in accordance with Article V, Section 6;
5. To hear and decide applications for gravel extraction;
6. To approve or deny zoning permit applications regarding flood hazard areas;
7. To hear and decide appeals taken under the Regulations, including but not limited to the allegation that there is a material error in any act, order, requirement, decision or determination by the Administrative Officer in connection with the interpretation and enforcement of the Ordinance;
8. To conduct site plan reviews; and
9. To hear and grant or deny a request for a zoning permit, including but not limited to requests for a zoning permit for planned unit development or subdivision.

3.3 PROJECTS AND ACTIVITIES WHICH REQUIRE DEVELOPMENT REVIEW BOARD APPROVAL PRIOR TO A ZONING PERMIT

1. GENERAL RULE. In general, unless otherwise specified in these regulations, the prior approval of single family homes, two family homes, agricultural and forestry uses and lot line adjustments generally do not require approval by the Development Review Board.
2. No zoning permit may be issued by the Administrative Officer for the following activities or projects, with-out prior approval by the Development Review Board:
 - a. Subdivisions, other than lot line adjustments
 - b. Conditional Uses; including

- i. Home occupations other than benign home occupations and those home occupations that are specified as permitted within each district,
 - ii. Development and sale of existing small lots
 - iii. Development on lots with no frontage on, or access to, public waters or a private or public road.
 - c. Expansions of nonconforming uses or structures as specified in these regulations
 - d. Planned Unit Development (Article IV, Section 1)
 - e. Variances (Article III, Section 8.5)
3. The procedures for application and approval are set forth in each section of the regulations which discuss the specific standards of review.

3.4 DEVELOPMENT REVIEW BOARD DECISIONS

- 1. The Development Review Board may recess any application process pending the submission of additional information.
- 2. The Development Review Board shall issue a decision within forty five (45) days of the warned public hearing required for conditional use determinations, variances, and administrative officer appeals. The failure to issue a decision will be deemed approval effective on the 46th day.
- 3.. The Development Review Board shall issue its decision in writing and shall include a factual bases and a statement of conclusions. The decision shall be mailed via certified mail to the applicant and/or the appellant in an appeal. Copies of the decision shall be forwarded to all persons appearing and having been heard at the hearing, and shall be filed with the Administrative Officer.

SECTION 4 – SITE PLAN APPROVAL AND REVIEW

4.1 SITE PLAN APPROVAL PROCEDURE

- 1. PROJECTS WHICH REQUIRE SITE PLAN REVIEW. No Zoning permit shall be issued for any subdivision (**other than lot line adjustments**), land development, or planned unit development without prior site plan review and approval by the Development Review Board. Site plan approval may be waived for minor projects, provided that the projects are approved by the Development Review Board. The Development Review Board may solicit comments from the Planning Commission during the review process.
- 2. NOTICE REQUIREMENTS. The Development Review Board shall require the applicant to notify all owners of adjoining property subject to the development and organizations that hold easements on the applicant's property, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall inform the recipient where additional information may be obtained and that participation in the local proceeding is a prerequisite to any subsequent appeal. The applicant shall provide the Development Review Board with proof of notice, via certified or registered mail, provided to adjoining land owners. The applicant shall provide the Development Review Board with the names and addresses of