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TOWN OF DUXBURY
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BOARD OF APPEALS

DUXBURY BOARD OF APPEALS  
MEETING MINUTES  
October 27, 2022 @ 7:30 p.m.

**ATTENDANCE:** Judith Barrett (CPT), Freeman Boynton Jr., Emmett Sheehan, Philip Thorn, Borys Gojnycz and Tanya Trevisan

**Other persons present at the hearing:** Jim Wasielewski, Building Commissioner and Lauren Haché, Administrative Assistant

**CALL TO ORDER:** Judith Barrett called the meeting to order and reads the Governor's Preamble: Pursuant to Governor Baker's Chapter 20 of the Acts of 2021 dated June 16, 2021, An Act of 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. For this meeting, members of the public who wish to watch the meeting may do so by viewing the Duxbury Government Access Channels – **Verizon 39 or Comcast 15**. Viewers can visit [www.pactv.org/duxbury](http://www.pactv.org/duxbury) for information about Duxbury programming including streaming on Duxbury You Tube, to watch replays and Video on Demand.

**ZBA Case #2021-40, Campbell, 5 E. Marginal Road (CONT'D):** *The Board voted 4-0-1 to continue the public hearing to November 10, 2022.*

**ZBA Case #2022-18, Bradford, 15 Lewis Court (CONT'D):** *The Board voted 5-0 to continue the public hearing to December 8, 2022.*

**ZBA Case #2022-23, Pontiff, 184 Marshall Street:** *The Board voted 5-0 to grant the special permit.*

**ADMINISTRATIVE**

**A. Grady, 39 Deacons Path:** *The Board voted unanimously (5-0) to approve the request administratively as an insubstantial change.*

*Tanya Trevisan moves to approve the minutes from September 8, 2022. Judith Barrett Seconds*

*Judith Barrett makes a motion to adjourn. Tanya Trevisan seconds (5-0)*

## BOARD OF APPEALS MINUTES

**Case No: 2021-40**

**Petitioner: Campbell**

**Address: 5 E. Marginal Road**

**Date: October 27, 2022 at 7:30 p.m.**

**(Continued from September 22, 2022, September 8, 2022, July 14, 2022, June 23, 2022, June 9, 2022, April 28, 2022 and February 10, 2022)**

**Members present:** Freeman Boynton Jr. (CPT), Emmett Sheehan, Philip Thorn, Borys Gojnycz, Tanya Trevisan and Judith Barrett

**Members Voting:** Freeman Boynton Jr. (CPT), Emmett Sheehan, Philip Thorn, Borys Gojnycz & Tanya Trevisan

**Other persons present at the hearing:** James Wasielewski, Director of Municipal Services & Lauren Haché, Administrative Assistant

- Freeman Boynton Jr. re-opens the public hearing and states we have received some new correspondence and refers to the site visit that took place, are there any comments on the site visit from Board members
- No comments
- Freeman Boynton Jr states we have received revised site and civil plans, revised architectural plans and letters and photos from the applicant
- Lauren Haché reads two letters into the record, one in opposition from Virginia Goudrou, 6 E Marginal Road and one in supports from Michael and Janice Burns of 1 E Marginal Road
- Paul Spiro, the Agent for the Applicants, presents the changes to the plans and notes that Brian Donohue, the Architect is here via zoom. We are still holding the same setbacks, more non-conforming on the front setback and coverage is within the 3% rule. We have added a gable return per request, showing the structure is 2 ½ stories, 5 room home with two bedrooms. The proposal, we feel, is consistent with the district. We also have photos of all of the area homes and their heights.
- Freeman Boynton Jr states ok, so what is the increase in non-conforming volume calculations. Once of my concerns is the increase in the non-conforming volume
- Jim Wasielewski states it is on sheet C-1 of the Plot Plan
- Discussion ensues around the illegibility of the calculations on the plan
- Freeman Boynton Jr states is should be on the table in the application too
- Jim Wasielewski states well, the application has been reduced greatly since it's submittal
- Tanya Trevisan states so the original application states the change is 3.9%, that's based on the application
- Freeman Boynton Jr states that's area calculations, I am looking for change in volume
- Tanya Trevisan states oh, they didn't provide the volume difference
- Emmett Sheehan states it will be a big number

- Tanya Trevisan states can the Architect run the numbers for us
- Brian Donohue states hello, I don't know that increase in volume, but it is on the civil plan
- Discussion ensues around the volume calculations
- Judith Barrett states the cart in the application needs to be complete and filled out
- Freeman Boynton Jr states the Bylaw doesn't indicate a maximum number but we do have to determine if it's more detrimental to the neighborhood
- Borys Gojnycz states is there any code required for siding from the fire department
- Jim Wasielewski states no, the building code addressed that is you are less than 5 feet, you have to consider fire resistant siding
- Freeman Boynton Jr states I personally think the parking with the garage and the pile foundation is a good thing, I just have a problem with the massing. The appearance is improved, but the third floor looks like a third floor not a 2 ½ story house.
- Emmett Sheehan states the neighborhood is going up-period.
- Freeman Boynton Jr states the west elevation of this home looks like a 3 story home. The photos of like homes in the neighborhood have 3 stories but the 3<sup>rd</sup> stories are all roof. I think by running that fascia across that this would work better
- Hugh Campbell, 5 E Marginal Rd states I just want to point out that the parking underneath makes this difficult but the parking underneath is critical
- Jaqueline Wolf, 13 Lewis Court, states we just built a two-story house on piles and we wonder if there is a required height or standard limit to these homes on non-conforming lots
- Jim Wasielewski states the height limitation is determined by the average mean roof height which comprises the top living space and it 30 feet. It's not to the peak, it's halfway down the roof line that covers the majority of the top floor is how it's determined and this home is 30 feet
- Freeman Boynton Jr states is this from an elevation 10 and 20 feet out; so this does meet the height requirement
- Freeman Boynton states which side of the house is considered the front, East Marginal or Lewis Court; there is an elevation of 9 on this plan not 10 for East Marginal-that would put you a foot over the height
- Paul Spiro states we could certainly lower the pitch
- Freeman Boynton Jr states this can't be conditioned, there should be a plan to reference
- Emmett Sheehan states lets continue this and they can update the plan and give us updated volume calculations
- Discussion ensued over the entrance to the home to determine the elevation
- Jim Wasielewski states the frontage can be on either Lewis Court or East Marginal Road, it's non-conforming on both sides; he changes the address if the grading is higher on that side
- Paul Spiro states that is the front door on Lewis Court, that is how visitors enter the home
- Jim Wasielewski states it has two fronts because it is on a corner lot, so pick one, without changing the address
- Paul Spiro states Lewis Court
- Freeman Boynton Jr asks if anyone else would like to comment, can I get motion to continue to November 10<sup>th</sup>
- Emmett Sheehan makes a motion to continue to November 10<sup>th</sup>
- Borys Gojnycz seconds

- All in favor BG, FB, ES, TT
- Philip Thorn abstains

**Motion: It was moved, seconded and voted to continue the public hearing to November 10, 2022**

Moved by: ES  
Number in favor: 4  
Abstain: 1

Seconded by: BG  
Number opposed: 0

## BOARD OF APPEALS MINUTES

**Case No: 2022-18**

**Petitioner: Bradford**

**Address: 15 Lewis Court**

**Date: October 27, 2022 at 7:30 p.m.**

**(Continued from September 22, 2022)**

**Members present:** Judith Barrett (CPT), Freeman Boynton Jr., Emmett Sheehan, Borys Gojnycz and Tanya Trevisan

**Members Voting:** Judith Barrett (CPT), Freeman Boynton Jr., Emmett Sheehan, Borys Gojnycz and Tanya Trevisan

**Other persons present at the hearing:** James Wasielewski, Director of Municipal Services & Lauren Haché, Administrative Assistant

- Judith Barrett opens the public hearing and reads the public hearing notice and states we have an application, photos, plans and a site plan and continues to read memos from the Health Agent, the Design Review Board and then some correspondence and there are quite a few in support (12 letters) and then a letter from Maureen Fitzgerald at 247 Gurnet Road listing and concerns and a letter from Paula Shakespeare of 245 Gurnet Road with concerns.
- Lauren Haché states we did receive an email from Paula Shakespeare of 245 Gurnet Road only supporting a rebuild in the same footprint
- Tanya Trevisan states do we have something from Conservation
- Rick Grady, Grady Engineering, states we have the Orders of Conditions from Conservation Commission. Mr. Grady continues with the presentation stating this is a pre-existing, non-conforming and a raze and rebuild. The coverage calculations will result in 995 sq. feet allowable and we are proposing 640 sq. feet, so less than the allowable amount with the 3% in the Bylaw. I did some volume calculations and 7 feet of this will extend into the setback, so that gives us a total 448 floor area existing and 4,076 cubic feet of volume in the setback. An 88-89% increase in volume with respect to the setback. This is proposed on piles and still meets the height.
- Judith Barrett states any Board comments
- Freeman Boynton Jr states how does this 10.2 first floor elevation works into the architectural, oh no that's existing, first floor is 14.5; how far is the first floor off the ground
- Rick Grady states the average grade is 9.8 and almost 4 feet above that to the first floor
- Jim Wasielewski, Building Commissioner, states the coverage calculations here and reads what is on the plan, what is the percentage of increase in non-conformity
- Rick Grady states 87.5 percent on the floor area and 89 percent on the volume
- Discussion ensued around 2 ½ stories and 3 story house and the addition of gable ends
- Chip Bradford, 15 Lewis Court, agrees to come up with a plan to show a 2 ½ story house
- Judith Barrett states are there any questions from the public
- Borys Gojnycz states did Mr. Grady state 80 percent of volume increase. Is there a way to show the percentage in square footage and volume with like houses in the neighborhood-do we have old data

- Maureen Fitzgerald, 247 Gurnet Road, states I abut this property and I will lose my view if this house shifts off its footprint and I encourage you to come to the property to see
- Emmett Sheehan states we should do a site visit
- Judith Barrett agrees
- The Board discusses the date for a site visit and decide on November 14<sup>th</sup> at 9:00am
- Freeman Boynton Jr. Makes a motion to continue the public hearing to December 8, 2022 at 7:30pm
- Emmett Sheehan Seconds
- All in favor JB, ES, FB, TT, BG

**Motion: It was moved, seconded and voted unanimously to continue the public hearing to December 8, 2022**

Moved by: FB

Number in favor: 5

Seconded by: ES

Number opposed: 0

## BOARD OF APPEALS MINUTES

**Case No: 2022-23**

**Petitioner: Pontiff**

**Address: 184 Marshall Street**

**Date: October 27, 2022 at 7:30 p.m.**

**Members present:** Judith Barrett (CPT), Emmett Sheehan, Philip Thorn, Borys Gojnycz and Tanya Trevisan

**Members Voting:** Judith Barrett (CPT), Emmett Sheehan, Philip Thorn, Borys Gojnycz and Tanya Trevisan

**Other persons present at the hearing:** James Wasielewski, Director of Municipal Services & Lauren Haché, Administrative Assistant

- Judith Barrett opens the public hearing and reads the hearing notice into the record, as well as the case response memos from the Health Agent, the Design Review Board and Planning Board.
- Freeman Boynton Jr. recuses
- Lauren Haché reads a letter from Del Irving of 166 Marshall Street in support
- Paul Brogna with Seacoast Engineers presented to the Board as the Agent for the Applicant. Mr. Brogna state that the Orders of Conditions were issued for the residential pier. The property is a pre-existing, non-conforming, a new house is being built on the property. For the proposed pier it is 4 feet by 17 feet coming down the existing slope, at the bottom there is a 4 foot by 72-foot walkway, a 6 foot by 8-foot platform ending 2 feet beyond the salt marsh in accordance with the zoning bylaw and then the seasonal 3 foot by 25-foot aluminum gangway and then the 10 foot by 20-foot float. We meet the sideline setback of 25 feet as preferred by Mass DEP and Army Corp of Engineers. There is no pier to the south looking towards Plymouth and there is a shared pier at 174/178 Marshall Street to the north about 180 feet.
- Judith Barrett asks if any Board Members have questions
- Borys Gojnycz states how much time does this sit in water seeing as it is shallow there, how much time around high tide
- Paul Brogna states 3 ½ to 4 hours on either side of high tide or about 60% of a 12-hour tide cycle
- Borys Gojnycz states thank you
- Philip Thorn states lights, my every pier question, you are not proposing lights correct
- Paul Brogna states no, just the seasonal holiday tree and power/water for maintenance
- Judith Barrett states is there anyone in the public that wishes to speak; hearing no one, can we get a motion to close the hearing
- Tanya Trevisan makes a motion to close the public hearing
- Philip Thorn seconds
- All in favor JB, TT, PT, BG, ES
- Judith Barrett states any discussion
- Philip Thorn makes a motion to approve the special permit as presented

- Tanya Trevisan seconds
- All in favor JB, TT, PT, ES, BG

**Motion: It was moved, seconded and unanimously voted to close the public hearing.**

Moved by: TT

Seconded by: PT

Number in favor: 5

Number opposed: 0

**Motion: It was moved, seconded and unanimously voted to approve the special permit as submitted.**

Moved by: PT

Seconded by: TT

Number in favor: 5

Number opposed: 0