



TOWN OF DUXBURY  
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BOARD OF APPEALS

DUXBURY BOARD OF APPEALS  
MEETING MINUTES  
July 13, 2023 @ 7:00 p.m.

TOWN CLERK  
2023 SEP 15 AM 9:45  
DUXBURY, MASS.

**ATTENDANCE:** Wayne Dennison, Judith Barrett, Emmett Sheehan, Freeman Boynton Jr., Philip Thorn, Borys Gojnycz, and Tanya Trevisan

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

**CALL TO ORDER:** Wayne Dennison called the meeting to order and reads the Governor's Preamble: Pursuant to Chapter 2 of the Acts of 2023, this meeting will be 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. Additionally, the meeting will be broadcast live, in real time, via 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.

**AGENDA**

**ZBA Case #2023-09, The Winsor at Millbrook Village, 50 Railroad Avenue, Comprehensive Permit Application (Cont'd):** The Board votes unanimously (4-0) to continue the public hearing to September 28, 2023 at 7:00pm

**ZBA Case #2023-10, Daly, 5 Hummock Lane:** The Board voted unanimously (5-0) to continue the public hearing to July 27, 2023

*Wayne Dennison makes a motion to approve the meeting minutes from April 13, 2023. Emmett Sheehan seconds.*

*Emmett Sheehan makes a motion to approve the meeting minutes from April 27, 2023. Judith Barrett seconds.*

*Emmett Sheehan makes a motion to approve the meeting minutes from May 11, 2023. Judith Barrett seconds*

*Emmett Sheehan makes a motion to approve the meeting minutes from May 25, 2023. Freeman Boynton Jr. seconds*

*Emmett Sheehan makes a motion to approve the meeting minutes from June 5, 2023. Judith Barrett seconds*

*Judith Barrett makes a motion to approve the meeting minutes from June 22, 2023. Emmett Sheehan seconds.*

*Wayne Dennison makes a motion to adjourn. Emmett Sheehan seconds.*

## BOARD OF APPEALS MINUTES

Case No: 2023-09

Petitioner: The Winsor at Millbrook Village

Address: 50 Railroad Avenue

Date: July 13, 2023 Time: 7:00 p.m.

(Continued from June 22, 2023 and May 11, 2023)

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

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

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

- Philip Thorn re-opens the public hearing and states we have new materials including some photos submitted by the Applicant, a memo from Con Comm that is from 2018, so I am not sure why that is in here and it's a different address, an email in support from Mike Juliano of 289 St. George Street
- Judith Barrett comments on the letter from Mr. Juliano stating that she has never heard of a comprehensive permit referred to as "high end"
- Emmett Sheehan concurs
- Philip Thorn continues and reads a letter in support from Leo Vercollone, 46 Standish Rd. and states that is all that we have received for new materials since the last hearing
- Judith Barrett states that she would like to let the Board know that she heard from the Town's peer review consultant, Pat Brennan, that there was missing information around the septic that Pat is waiting on from their Engineer
- Emmett Sheehan states traffic study
- Matt Walsh, the Applicant, presents some photos of area buildings, explain that area building heights and also states that the traffic study is being prepared at the moment and is 80% done and should be ready before September.
- Emmett Sheehan states we really should wait to meet about this until there is new materials that the Peer reviewer has reviewed
- Judith Barrett states we are waiting for Pat and Pat states he needs more complete information before he can continue the review
- Judith Barrett states we have all of these plans, but we really can't do much tonight without the changes on the plans and the peer review of those changes
- Wayne Dennison states do you have a drafted decision we can work off of
- Judith Barrett states well Amy (town counsel) will want to speak to your attorney, who is your attorney
- Matt Walsh states I am
- Judith Barrett states we would really like to see a 3D rendering of all of the buildings together, with the streetscape and neighborhood buildings
- Discussion ensues and a continuation date is discussed of September 28<sup>th</sup>
- Matt Walsh states what I hope to have submitted to the Board by that date is all of the engineering including title 5 and drainage, a traffic study, landscape plans and I intend to have everything completed and will include a draft of the comprehensive permit
- Philip Thorn states do we have anyone from the public wishing to speak



- Liz Bradley, 114 Alden Street, asks to see a rendering 3d with all the buildings in relation to the neighborhood and with landscaping
- Ashley Martineau, 7 Cooper Hill Road, states we would like to see a rendering of the proposal with the vegetation from the Architect, who said at the last meeting we would see it
- Philip Thorn states anyone else
- Judith Barrett states can we summarize what we are waiting for
- Philip Thorn states we are waiting for the Engineer Peer Review, a traffic study, landscape plans, a more comprehensive 3D rendering/perspective in relation to surrounding vegetation and surrounding structures, a numbered list of waivers being sought, and a draft comprehensive permit decision to all be submitted at least a week ahead of the meeting
- Tanya Trevisan makes a motion to continue the public hearing to September 28, 2023 at 7:00pm
- Judith Barrett seconds the motion
- All in favor JB, TT, BG & PT (Emmett Sheehan left the room momentarily)

**Motion: It was moved, seconded and voted (4-0) to continue the public hearing to September 28, 2023 at 7:00p.m.**

Moved by: TT

Number in favor: 4

Seconded by: PT

Number opposed: 0

## BOARD OF APPEALS MINUTES

**Case No: 2023-10**

**Petitioner: William and Joanne Daly**

**Address: 5 Hummock Lane**

**Date: July 13, 2023 Time: 7:30 p.m.**

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

**Members Voting:** Wayne Dennison, Judith Barrett, Philip Thorn, Emmett Sheehan, and Freeman Boynton Jr.

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

- Wayne Dennison opens the public hearing and reads the hearing notice, details what is included in the packet and the case correspondence; noting that the Planning Director states the property is in the WPOD, if that is the case, it hasn't been noticed properly
- Jessica Williams introduces herself and states it isn't in the WPOD on the site plan either and I did notice a few other errors in the report as well
- Jim Wasielewski states, it is not, based on the zoning overlay district maps
- Wayne Dennison states ok, let's keep going
- Jim Wasielewski state I did notice that the plot plan we have isn't stamped by the Engineer and I see a math error. The zoning bylaw says you determine coverage by the lot, not lot area and this doesn't calculate using the right of way.
- Wayne Dennison states arguably as depicted there is more lot here or less lot, which means that the lot coverage number is higher than the number on this plan; the coverage is already 15.9% and the property is smaller than 20,000 square feet, then the percentage is more than 15.9% then the 3% doesn't come into play. I actually asked Amy for an opinion on this
- Judith Barrett concurs
- Jim Wasielewski states no, it comes into play when a non-conformity exists, that exceeds the sum of 15% and 3%
- Judith Barrett States how
- Wayne Dennison states we have an opinion from Town Counsel that states if it is already over 15%, you don't use the 3% rule
- Judith Barrett states I agree
- Jim Wasielewski states the calculations work out to be 1,014 with the 15% and extra 3%; they are asking for an increase but it's still under the allowable coverage
- Wayne Dennison state ok, Jessica I apologize for cutting you off, so please go ahead
- Jessica Williams goes over the proposal, showing existing photos and the site plan to explain the need to meet code and build the home on piers.
- Wayne Dennison states so the side setbacks will be 11.9 south setback and 13.4 from east setback, but you are proposing to make one a little less non-conforming
- Jessica Williams states that is correct
- Freeman Boynton Jr states what about the front setback, you're making that increase
- Jessica Williams states we are increasing the front setback but will be conforming by using the average between the two houses on each side of this house
- Wayne Dennison states where are the measurements from those two houses on the site plan



- Jessica Williams points out the measurements on the existing measurements plan; Jessica continues and goes over the architectural plans and states we have 3 small bedrooms on the first floor, second floor is kitchen and living space and then there is a loft space open to below. We are going before Conservation and I have asked them to reconsider how we can meet their regulations, I will have to condense the whole house and it would add more air under the structure. We also have to go before Historic as well.
- Wayne Dennison states why are we hearing this before Con Comm first, it does seem premature
- Jessica Williams states that the Duxbury Con Comm rules and regulations with the prior Con Comm Administrator, did not hold us to this specific rule, 20.1.4 and we have built many, many previous projects but there has been a change in command there. Basically, buildings in the A zone need to accommodate for a 2.8 foot sea level rise. I can accommodate the 2.8 foot by going up, but I would like to accommodate it with Mass and FEMA code – going up to the finished floor, where conservation goes from the top of the pile. We would lose head room
- Wayne Dennison states Jim, this is right at the max
- Jim Wasielewski states I am aware and have reviewed and met with Jessica several times and states that the building code for AE zone differs from Conservation. I cannot speak to the Conservation
- Wayne Dennison states well Conservation is entitled to make any interpretation of their own rule
- Judith Barrett states what about Design review
- Jessica Williams states Design Review was complementary but I don't think they submitted a review yet
- Freeman Boynton Jr states I have a few questions, the midline of the roof is elevation 38 and the grade is 8, but I believe our regulations state you require you measure the building 20 feet in front of the building and that looks to be close to 7. The other comment is coverage and the overhangs, where the overhangs are very large here and should be included in the coverage
- Jim Wasielewski states we have discussed this and do we use the overhang or perimeter of the building. We determined up to 12" of overhang inclusive
- Judith Barrett states where is that written down.
- Jim Wasielewski states it isn't
- Freeman Boynton Jr states we had this come up on Friendship Lane previously
- Jessica Williams states these overhangs are roughly 2 feet
- Wayne Dennison states does the coverage include 1 foot of overhang; Jim, I think Grady needs to be involved with this
- Jim Wasielewski states yes, but I am on vacation starting tomorrow for two weeks.
- Wayne Dennison states I frankly don't want to decide this until Con Comm has made their determination
- Jessica Williams states the only thing Con Comm is deciding is if I am lifting up the building
- Wayne Dennison states right, which you have stated would squish the building
- Emmett Sheehan states Jim, should we be adding 1 foot of overhang to the coverage here
- Jim Wasielewski states customarily overhangs are typically 1 foot
- Jessica Williams states well, if we are going to be using overhangs, then the existing plan and coverage should add that in as well and has the existing home photos shared on the screen
- Judith Barrett states it isn't specific in our Bylaws and so now we are making Applicants go through it and we're trying to remember what we did in this case and that case, it isn't written anywhere



- Freeman Boynton Jr states I am wondering how many bedrooms are in the existing house and what is proposed.
- Jessica Williams states three small bedrooms
- Freeman Boynton Jr states so increasing flows
- Jessica Williams states Marshfield
- Freeman Boynton Jr further asks, not for this application, but in the future what is the process in Marshfield and should we be retaining a referral from Marshfield wastewater about additional flows
- Judith Barrett states is that a real zoning issue
- Freeman Boynton Jr states my last point is that average setbacks, the bylaw uses direct abutters and, in this case, shouldn't 40 Ocean Road North be included in the average, the property right behind it.
- Wayne Dennison reads the section of the bylaw where it states "adjoining lots"
- Jessica Williams states I will have the Engineer add that to the list
- Judith Barrett states we need clarity in the bylaw, fine, but the current bylaw doesn't say this
- Jessica Williams states the larger overhangs create a greener design in terms of sun
- Wayne Dennison states can we get an opinion from Amy on this; I would like to continue this hearing
- Discussion ensues around overhangs and sizes
- Jessica Williams states every other project out on the beach, with Grady, have all been approved. We have never had a discussion about overhangs, ever
- Wayne Dennison reiterates his desire to seek Town Counsels opinion
- Jessica Williams states my last project on Surfside West and the building was literally a foot off the lot line and overhangs never came up
- Philip Thorn states I view overhangs as an architectural element rather than coverage
- Emmett Sheehan states can we continue to the next July meeting
- Wayne Dennison states I want to wait for Con Comm
- Jessica Williams states they meet every two weeks
- Emmett Sheehan states can we put Jessica on for the 27<sup>th</sup>
- Jessica Williams states can I clarify, I am coming back for coverage and through conservation
- Wayne Dennison states a site plan that complies – stamped and what the other adjoining properties distance to the road is as well
- Wayne Dennison states is there anyone else to weigh in here
- Borys Gojnycz states I am wondering and want to make sure that the notice was sent to the adjacent neighbors have been notified and have we heard back from them
- Wayne Dennison states we have to notify
- Jessica Williams states the Clients shared plans with the neighbors
- Judith Barrett states people shouldn't have to prove the neighbors are ok with it. The responsibility is that the neighbors are notified, that's it.
- Joanne Daly, the homeowner, explains that her daughter grew up in the cottage with them over the years and now that our daughter is married and will have children and I want them to come to my beach house and enjoy it. I told Jessica from the start, I don't want a tower; I don't want a beach view, I just want space for my family to enjoy. I am coming to live in this house year round and all of the homes around us, are going up.
- Wayne Dennison states thank you very much
- Judith Barrett moves to continue the hearing to July 27, 2023

- Wayne Dennison seconds
- All in favor JB, WD, TT, FB, PT

**Motion: It was moved, seconded and voted (5-0) to continue the public hearing to July 27, 2023**

Moved by: JB  
Number in favor: 5

Seconded by: WD  
Number opposed: 0