



TOWN OF DUXBURY
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BOARD OF APPEALS

DUXBURY BOARD OF APPEALS  
MEETING MINUTES

September 20, 2023 @ 7:30 p.m.

TOWN CLERK  
2023 NOV 14 AM 11:22  
DUXBURY, MASS.

**ATTENDANCE:** Wayne Dennison, Philip Thorn, Emmett Sheehan, Freeman Boynton Jr. and Borys Gojnycz  
**Other persons present at the hearing:** Amy Kwesell, Town Counsel, James Wasielewski, Director of Municipal Services & Lauren Haché, Principal Assistant

**CALL TO ORDER:** Wayne Dennison, Chair, 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 # 2023-18 McLaughlin, 685 Washington Street, Remand Order:** Remand Order from the Land Court dated August 24, 2023 (the "Remand Order") in John McLaughlin v. Duxbury Zoning Board of Appeals, Civil Action No. 19 MISC. 000109. Pursuant to the Remand Order, the Zoning Board of Appeals shall consider whether the imposition of reasonable conditions is warranted for the proposed residential pier on the Plaintiff's property at 685 Washington Street, Duxbury and shall issue the special permit requested by the Plaintiff as ordered by the Land Court and affirmed by the Appeals Court in Case No. 22-P-803.

*Wayne Dennison makes a motion to adjourn. Philip Thorn seconds.*

## BOARD OF APPEALS MINUTES

**Case No: 2023-18**

**Petitioner: McLaughlin - Remand**

**Address: 685 Washington Street**

**Date: September 20, 2023 Time: 7:30 p.m.**

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

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

**Other persons present at the hearing:** Amy Kwesell, Town Counsel, James Wasielewski, Building Commissioner and Lauren Haché Principal Assistant

- Wayne Dennison opens the public hearing and reads the hearing remand notice and asks Town Counsel, Amy Kwesell, if this public hearing is limited to whether the Board will impose reasonable conditions and what those conditions will be
- Amy Kwesell states correct, that is exactly what we have to do here
- Wayne Dennison states we have received a decision from the Land Court for this case, the remand order, a letter from the Historical Commission who are in opposition, a letter from William Tenhoor Water Street, and a letter from Attorney Uitti on behalf of the Friends of the Bluefish River which I will let him speak to as I see him in the audience, a letter from the Design Review Board and a memo from the Conservation Administrator. Wayne Dennison states I would like to ask the Applicants if they feel conditions are appropriate and if so, what conditions should be applied
- Attorney Paul Driscoll presented to the Board, as the Agent and Attorney for the McLaughlin's. Mr. Driscoll states this hearing is for reasonable conditions. Yes, conditions are appropriate and reasonable conditions seem across the Board. Mr. Driscoll states that the original issue was the length of the pier. Paul Driscoll reads the list of typical conditions on recently permitted piers by the ZBA
- Borys Gojnycz asks about electric on the pier
- Paul Driscoll states for the use of holiday lighting
- Mr. Driscoll continues and states that the 5<sup>th</sup> condition is ridiculous and doesn't apply here
- Amy Kwesell states the 5<sup>th</sup> condition is no commercial use
- Borys Gojnycz states would you be opposed to a different gangway
- Paul Driscoll states no, we are here for conditions only, which Judge Smith and the Appeals Court state "as applied for"
- Attorney David Uitti presents to the Board on behalf of the Friends of the Bluefish River, stating that the Board can implement conditions on the construction of the pier and presented the important interests of the WPOD, the WSA and the historic shipbuilders district. We suggest a different location for the pier, so that the pier would shorter and we suggest that the pier would be made of wood, and that there be no storage of materials – hazardous materials or furniture
- Sherman Hoyt, 51 Abrams Hill, spoke about the Appeals court decision and states his concerns about where the float will sit in the mud in the inlet of the Bluefish River.
- Frank Holden, Powder Point, states I want to address ZBA's original hearing and what is happening here today.



- Karen Trace, 1 Water Street, states I don't think that the piers on open water are able to be held to the same standard that is being held to here
- Paul Brogna, 90 Humphrey's Lane, reads the conditions implemented on the last several piers in town and states those are appropriate in this instance as well. These conditions do not involve the design of the pier or the construction of the pier.
- Wayne Dennison states can we discuss a different material or a shorter pier, I feel remised to ask that
- Paul Driscoll states no, we are here based on what the court has bound us with; the answer is no, we will not limit it or changed materials, we do not want to restart the appellate process all over again
- Jason Carleton, 1 River Lane, states I think that if the McLaughlin's keep their pier half as nice as they keep their home and property, we should be so lucky. I have no expertise with all of these other issues being arisen, so I support this.
- Sherman Hoyt states I would like to state there is no rule that a pier has to have a float or a rail, those are accessories
- Freeman Boynton Jr. states can we reaffirm here what we can and cannot do here for conditions, the comments are a little off center here.
- Amy Kwesell explains the decision in place from the prior decision that the ZBA issued. The only condition that I would recommend in addition to the typical conditions, would be to state that the float not be stored on the salt marsh. I am recommending to the board the following 6 conditions:
  - Compliance with Chapter 91 license from the Commonwealth of Massachusetts
  - Compliance with any and all State, Federal and Local rules and regulations
  - Compliance with any and all applicable Orders of the Conservation Commission or Superseding Orders of Conditions issued by the Massachusetts Department of Environmental Protection
  - There shall be no permanent lighting on the pier (although electrical outlets and appropriate seasonal lighting are permitted)
  - There shall be no commercial use
  - The float shall not be stored within the salt marsh resource area
- Freeman Boynton Jr states ok, and nothing added for reasonable conditions
- Amy Kwesell states we would be hard pressed to add more conditions that are reasonable
- Kathy Palmer, 10 Powder Point Avenue, I have been to all of the hearings and usually a pier gets approved by the con comm and the zba fine tunes this, but in this case it was never approved by the con comm.
- Wayne Dennison states we had a peer review look at this peer
- Kathy Palmer states that was a landscape architect and any way, I am saying we have concerns
- Wayne Dennison states does anyone want to make a motion
- Philip Thorn states motion to close the public hearing
- Wayne Dennison seconds
- All in favor WD, PT, ES, FB, BG
- Wayne Dennison states any discussion
- Freeman Boynton Jr states I don't think we have any options
- Wayne Dennison states I think we should approve this with the 6 conditions that Counsel recommended. We have approved dozens of these and this one should be treated like all of the rest

- Wayne Dennison moves to agree to apply reasonable conditions as proposed by the Land Court and to propose that we apply the 6 conditions discussed this evening and recommended by Town Counsel
- Philip Thorn seconds
- All in favor WD, PT, ES, FB, BG
- Wayne Dennison makes a motion to adjourn
- Phil Thorns seconds
- All in Favor WD, FB, ES, PT, BG

**Motion: It was moved, seconded and voted (5-0) to close the public hearing.**

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| Moved by: PT       | Seconded by: WD   |
| Number in favor: 5 | Number opposed: 0 |

**Motion: It was moved, seconded and voted (5-0) to approve the and implement the six reasonable conditions recommended by Town Counsel to the special permit as per the Remand order.**

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|--------------------|-------------------|
| Moved by: WD       | Seconded by: PT   |
| Number in favor: 5 | Number opposed: 0 |