



TOWN OF DUXBURY  
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BOARD OF APPEALS

DUXBURY BOARD OF APPEALS  
MEETING MINUTES  
September 28, 2023 @ 7:00 p.m.

TOWN CLERK  
2023 NOV 14 AM 11:23  
DUXBURY, MASS.

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

**Other persons present at the hearing:** Amy Kwesell, Town Counsel & James Wasielewski, Director of Municipal Services

**CALL TO ORDER:** Judith Barrett, 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 #2023-09, The Winsor at Millbrook Village, 50 Railroad Avenue, Comprehensive Permit Application (CONT'D):** *The Board voted unanimously to continue the public hearing to October 12, 2023.*

**ZBA Case #2023-17, Duxbury Energy Storage LLC, 0 West Street, APPEAL:** *The Board voted 2-3 on a motion to overturn the Building Commissioners denial of a building permit.*

**Administrative:**

**A. Nouria, 10 Washington Street:** *The Board voted 4-0 to approve the amended freestanding sign special permit.*

*Philip Thorn makes a motion to adjourn. Freeman Boynton Jr. seconds.*

## BOARD OF APPEALS MINUTES

**Case No: 2023-09**

**Petitioner: The Winsor at Millbrook Village**

**Address: 50 Railroad Avenue**

**Date: September 28, 2023 Time: 7:30 p.m.**

**(Continued from July 13, 2023, June 22, 2023 and May 11, 2023)**

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

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

**Other persons present at the hearing:** Amy Kwesell, Town Counsel & James Wasielewski, Building Commissioner

- Matt Walsh, the Agent for the Winsor at Millbrook Village, presents to the board noting that Pat Brennan, the Town's Peer Reviewer has submitted a total of 3 letters
- Jacob Trent from Julio Cheslo's office, the Architect for the project, presents the renderings of the buildings.
- Philip Thorn states the views you were showing, those were several concepts correct, of what it would look like with different plantings?
- Matt Walsh states correct, it was tricky for Jacob to decipher which trees were on our lot and what is on the other side; we will have to cut trees when we build this and we plan to replant with probably arborvitaes
- Tanya Trevisa states I have a waivers question, you are only looking for two waivers
- Matt Walsh states I thought we had three waivers, but Pat stated in his letter states 2 waivers
- Tanya Trevisan states is there a list; exhibit A?
- Matt Walsh states yes and continues to explain the title 5 rules and the proposed presby system for the property
- Judith Barrett states we do need a straight story on the waivers; Judith Barrett states are there any comments on the perspective
- Emmett Sheehan states are they really going to look like that
- Judith Barrett states do we have any more comments on this from the Design Review Board
- Matt Walsh states we have been to the design review a few times, but they are withholding their blessing due the height issue, even though we are complying with local zoning.
- Tanya Trevisan states what is the height
- Matt Walsh states we are at 38 feet 6 inches to the ridge, the duxplex top ridge is 22 feet for perspective
- Tanya Trevisan states are you seeking a waiver for the height



- Matt Walsh states no, this is conforming with the bylaws; the midline is to 30 or even under
- Jim Wasielewski states to clarify, the midline is 28 or 29 feet, so below the 30 feet which is the limit in the bylaw.
- Matt Walsh states it is on the town's website
- Judith Barrett states you need to be ready to share this in a public meeting, it isn't the Building Inspectors job
- Jim Wasielewski states there was a discussion with the Architect about the height and the combination of the upper and lower pitch, creates more of a massing because it's a gambrel. They are compliant with the zoning bylaw as I recollect
- Judith Barrett reaffirms that the team needs to be present and ready to present and answer questions.
- Tanya Trevisan reaffirms that the architect should be here in person
- Jim Wasielewski states has the fire department looked at this
- Judith Barrett states we need a memo from them
- Matt Walsh asks about creating a working group to help iron out issues
- Judith Barrett states have the department heads met regarding this project
- Jim Wasielewski states we can request a meeting
- Matt Walsh reiterates they are doing the best they can, they have submitted everything asked of them.
- Robert Crowell, the projects Engineer, states I met with both police and fire previously and explained the water main plan with sprinklers and they will have to pressure test that, but I will meet with fire again so they can see the latest plans
- Borys Gojnycz states where is the sidewalk along Railroad Ave that was suggested
- Matt Walsh states the sidewalks specific to the development are on the plans, not on the renderings. The renderings were more so about the height.
- Judith Barrett states I don't see it on the plan
- Matt Walsh states the sidewalk on Railroad is not on the plan, the sidewalks inside the development are there
- Judith Barrett states we need to have whatever you are proposing to be on the plan
- Liz Bradley, 114 Alden Street, states I am very concerned about the height
- Judith Barrett states what does the board want to do
- Emmett Sheehan states they need add the sidewalks to the plans
- Philip Thorn states I think these renderings are very helpful and I hear the neighbor's concerns about the height, but can we legally do anything about that? What I would like to see a more complete package, I feel this is very scattered and also the memos from the applicable boards
- Emmett Sheehan states are these going to be low income or moderate
- Matt Walsh states 80% of the median income as dictated by DHCD; the low income will be two 2-bedroom around \$250+K and the 3-bedroom probably high \$200k
- Judith Barrett states our jurisdiction is confined, as Duxbury is not at safe harbor-let's find a date to continue this to
- Jim Wasielewski states October 12<sup>th</sup> or 26<sup>th</sup>

- Matt Walsh states the 12<sup>th</sup> so I need a compilation package with everything, a proposed sidewalk as a condition on Railroad, you want letters from Fire and DRB and DPW and I think that is it.
- Judith Barrett states do we have this draft decision in word
- Matt Walsh confirms
- Judith Barrett states any other comments; I'll entertain a motion to continue the public hearing to October 12<sup>th</sup> at 7pm
- Emmett Sheehan seconds
- All those in favor JB, PT, ES, TT, BG

**Motion: It was moved, seconded and voted (5-0) to continue the public hearing to Thursday, October 12, 2023 at 7pm.**

Moved by: JB

Seconded by: ES

Number in favor: 5

Number opposed: 0



## BOARD OF APPEALS MINUTES

**Case No: 2023-17**

**Petitioner: Duxbury Energy Storage**

**Address: 0 & 711 West Street**

**Date: September 28, 2023 Time: 7:30 p.m.**

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

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

**Other persons present at the hearing:** Amy Kwesell, Town Counsel & James Wasielewski, Building Commissioner

- Judith Barrett opens the public hearing and reads the public hearing notice into the record and states I will turn this over to the proponent and let them explain what is going on
- Nina Pickering-Cook with the firm Anderson and Kreeger and I am representing Duxbury Energy LLC. Ms. Cook explains that after discussions with Mr. Read and Mr. Wasielewski, we applied for a building permit, knowing that Jim would deny this as a use and applied for an appeal, as we are looking for an energy storage facility. I would like to turn this over to Erin Kendrick with New Leaf Energy
- Erin Kendrick the project manager with New Leaf Energy introduces themselves and explains what New Leaf does with the adoption of renewable energy and energy storage. Energy storage essentially takes renewable energy off of the grid during off peak hours and stores it to be used during peak hours. Energy storage is critical for the transition to renewables. Ms. Kendrick continues to explain the proposal and the area and how they picked this parcel stating allowing energy storage allows the grid to become more and more reliable and stable as more renewables come online
- Philip Thorn states how do you compare the size of this storage facility as it relates to how many Tesla's would this charge
- States 200 tesla's
- Freeman Boynton Jr states what about the fire suppression systems you mentioned, what does that consist of
- Mike Conway, the Engineer with New Leaf Energy explains the process, that it sprays to stop the thermal run away to cool it down
- Freeman Boynton Jr states is there any PFAS in that
- Mike Conway with New Leaf states we can follow up with you on that
- Tanya Trevisan states what is the battery life on this
- Erin Kendrick states the battery life is 20 years and then we would recycle them
- Philip Thorn states how close are we to the APOD
- Mike Conway with New Leaf states we will look at this and get back to you
- Nina Pickering-Cook states it's not on the plan, because it's not in the zone

- Wendell Cerne, Duxbury Alternative Energy Committee, states we did see this proposal and we feel this is a necessary part of renewable energy but we did recommend that they speak to neighbors.
- Philip Thorn states would you like this near your property
- Wendell Cerne states I would fine with it, just like the risk we have taken with natural gas lines running down our street
- Tanya Trevisan states does this omit any radiation
- Erin Kendrick states no and there is no noise
- Freeman Boynton Jr states how much noise do these produce
- Erin Kendrick states we will hear the hvac ac units kick on but it will comply with Massachusetts rules and regs
- Judith Barrett states how tall
- Erin Kendrick states 10 feet tall
- Emmett Sheehan states are there any other ones in Massachusetts
- Erin Kendrick states Braintree, UMASS Amherst, and Acushnet golf ball facility and we have a lot at solar fields around town; we are not the only developer with these we are only speaking about our own. There is 24/7 monitoring for safety
- Freeman Boynton Jr states worst case, can the fire department put these out
- Mike Conway states yes, there are isolated cabinets internally and so the method is to let the energy burn out
- Nina Pickering-Cook presents the legal reasoning to support this project and notes that Duxbury's bylaw is silent
- Amy Kwesell, Town Counsel, speaks to the reasoning for upholding the decision of the Building Commissioner.
- Emmett Sheehan asks for public comment
- Cliff Hesson, 781 West Street, states this is not a safe project to the area, as you can see the project is way far away from the property owner's home and closer to our property. Put it into your own backyard. All of the other areas they talked about that have these were municipal areas, not residential areas
- Nina Pickering Cook states the Town could have first hand involvement with the design, construction and conditions and the second we go to DPU as your Counsel suggested, the Town is not involved
- Amy Kwesell states I don't know what regulations you would put on this, there is no noise bylaw, I don't know what other conditions you would implement
- Judith Barrett states we are not reviewing a special permit here, we are either voting to uphold or reverse the Building Commissioners determination. I think Amy states they could apply for a use variance
- Nina Pickering Cook states I am assuming the standard for use variance is the same standard soil, shape or topography so I don't think we meet the use variance
- Amy Kwesell states yes, there would need to be a hardship. Addressed with the TCA, the hardship would be lack of energy storage
- Philip Thorn states we need to go back to Jim's reasoning, this is strictly on the appeal



- Judith Barrett states if we over rule Jim, does that then trigger a site plan review with the Planning Board
- Emmett Sheehan makes a motion to uphold the Building Commissioners denial of a building permit
- Freeman Boynton Jr seconds
- Judith Barrett states any discussion
- Tanya Trevisan states yes, what are the implications of voting yay on this
- Amy Kwesell states they can get a zoning exemption with the DCU or they could appeal to Land Court
- Emmett Sheehan makes a motion to close the public hearing
- Philip Thorn seconds
- All in favor JB, ES, TT, FB, PT
- Judith Barrett states so now we can vote on the motion on the table; All those in favor say aye
- Philip Thorn and Emmett Sheehan say AYE
- All those opposed Nay Tanya Trevisan and Judith Barrett
- Freeman Boynton votes Nay

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

Moved by: JB

Seconded by: PT

Number in favor: 5

Number opposed: 0

**Motion: It was moved, seconded to uphold the Building Commissioners denial of the Building Permit.**

Moved by: ES

Seconded by: FB

Number in favor: 2

Number opposed: 3