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TOWN OF DUXBURY

BOARD OF APPEALS

DUXBURY BOARD OF APPEALS MEETING MINUTES

October 11, 2018 @ 7:30 p.m.

ATTENDANCE: Emmett Sheehan, Freeman Boynton, Jr., Dimitri Theodossiou, Borys Gojncyz & Philip Thorn

CALL TO ORDER: Emmett Sheehan, CPT called the meeting to order.

- **ZBA Case # 2018-16 King, 4 Midway Rd., Special Permit:** *The Board voted to approve the special permit with conditions. All in favor (5-0).*

Freeman Boynton, Jr. makes a motion to close the public hearing for 4 Midway Road. Philip Thorn seconds. All in favor (5-0).

Philip Thorn makes a motion to approve the special permit, with conditions, for 4 Midway Rd. Emmett Sheehan seconds. All in favor (5-0).

Emmett Sheehan makes a motion to approve the meeting minutes of September 27, 2018. All in favor (3-0).

Freeman Boynton, Jr. makes a motion to adjourn the meeting. Philip Thorn seconds. All in favor (5-0).

BOARD OF APPEALS — MINUTES

Applicant: John King (Paul Brogna, Agent)

Property Address: 4 Midway Road

Case No: 2018-16

Date: October 11, 2018 Time: 7:30 p.m.

The Board of Appeals will hold a public hearing in the Mural Room at Town Hall, 878 Tremont Street, on Thursday, October 11, 2018 at 7:30 p.m. to consider the application of John C. King for a Special Permit under Article(s) 400 and 900, Section(s) 404.6, 404.7, 404.8, 404.9, 404.20 and 906.2 of the Duxbury Protective Bylaw. The property is located at 4 Midway Road, Parcel No. 111-939-017 of the Duxbury Assessors Map, consisting of 1.24 acres in the Residential Compatibility & Wetlands Protection Overlay Districts and owned by John C. & Nancy R. King. The Applicant proposes to demolish an existing pier and construct a new pier. A Special Permit is required.

Members present: Emmett Sheehan, Freeman Boynton, Jr., Dimitri Theodossiou, Borys Gojncyz & Philip Thorn

Members Voting: Emmett Sheehan, Freeman Boynton, Jr., Dimitri Theodossiou, Borys Gojncyz & Philip Thorn

Other persons present at the hearing: Angela Ball, Administrative Assistant

- Emmett Sheehan, CPT, opens the meeting & reads the public hearing notice into record for 4 Midway Road.
- Emmett Sheehan then begins to cite and read, some in part, the correspondence from ZBA case #2018-16: A Memo from the Board of Health dated 9/4/18 stating it has no comments; a Memo from the Conservation Commission dated 9/12/18 stating the Conservation Commission held a hearing and issued Orders of Conditions; a Memo from the Planning Board dated 10/2/18 stating they discussed the project and voted unanimously to defer judgement to the ZBA; a Memo from the Design Review Board dated 10/8/18 stating that the DRB met with the homeowner's agent Paul Brogna and discussed possibly narrowing the deck width in order to lower the pier by a half a foot, but ultimately had no objections.
- Paul Brogna of Seacoast Engineering states he represents the homeowner's the Kings and goes on to state that the Kings have rehabbed the house since they purchased it and that this project is phase II which is to replace the 40 year old pier with a new one. Mr. Brogna states that next he will speak to the lay of the land.
- Paul Brogna [referring to photographs in the application package] states that in looking at the photos you can see the layout and that it is the old generation of pine material and it is now unsafe structurally, that you can see that in the existing piles. He states that the plan for the new piles will be 10' on center, not every 5' or 7' as it is now and that economic analysis determined replacing the pier is the best course of action.
- Mr. Brogna states that they have the approval of the Con Comm, a Chapter 91 license, which Scott Lambiase actually recommended we do first about a year ago. Mr. Brogna explains a bit more, stating that yes it is over 200' but it is the shortest distance over the salt marsh and the new pier will start and stop at the same spots and the platform will be standard 6'x8', not the 6'x18' or whatever is there now. Mr. Brogna states that the 4'x12' ramp, 265' walkway and 6'x8' platform are no more than 2' from end of salt marsh; he [shows pictures of existing gangway] explains that the overall length is 12 to 15' longer but the float and gangway will get removed every fall. Mr. Brogna states they've covered all the applicable parts of the bylaw with this application – 404.7, 404.8, 404.9 as well as

404.20 which is the design of components and all are ok except the length but we are grandfathered with that and sideline. Mr. Brogna finishes by reading from the bylaw regarding compliance with reconstruction.

- Dimitri Theodossiou asks how a property is grandfathered.
- Freeman Boynton, Jr. states that it is because it's there.
- Paul Brogna reaffirms Freeman's statement, goes over why and that it's due to the age.
- Freeman Boynton, Jr. asks if there is an as built of the existing.
- Paul Brogna answers, no.
- Freeman Boynton, Jr. asks where existing plan is.
- Paul Brogna states it is on the large plan and then showing the large plan to the Board he goes on to states that we are not in a WSA and that the last item of 906.2 regarding proposed benefits of the project vs detriments and some improvements will be a pier to today's standards and it'll serve the neighborhood purposes for years to come and that there are 2 or 3 new generation piers within 400 or 500' from each other and others cannot get a pier with the regulations now.
- Dimitri Theodossiou asks if it will be a shared pier.
- Paul Brogna answers, no.
- Dimitri Theodossiou states that you had said it would serve the neighborhood.
- Paul Brogna states that no, it will not be shared, and apologies if his statement was misleading.
- Dimitri Theodossiou asks if the Army Corps include disposal requirements.
- Paul Brogna states that is done with the contractor.
- Dimitri Theodossiou asks if it part of the plan.
- Paul Brogna answers, yes they have a proposal from the contractor and it is part of his job.
- Dimitri Theodossiou asks if they will cut the piles and leave in place, wondering what the scope is.
- Freeman Boynton, Jr. states they usually pull them out.
- Paul Brogna states that pulling out the piles is not a big deal, it will fill in over time and it is part of the regular process to remove. Mr. Brogna asks if there are any questions.
- Emmett Sheehan asks what the decking is on this one.
- Paul Brogna states it's 2x8' in a transverse location and it is not an inexpensive project, but it will be an aesthetic improvement to the area.
- Dimitri Theodossiou asks if there will be electric and water service.
- Paul Brogna states that they put connections in so that it'll be there if need be.
- Dimitri Theodossiou asks if there will be lights?
- Emmett Sheehan states that we do condition these that there are no lights, that a Christmas tree is ok, but no runway lights.
- Philip Thorn states that he read in the Design Review Board letter that they spoke of aluminum decking and this is not, correct?
- Paul Brogna states that it is not, just the railing and the gangway and that the conditions of the bylaw say mostly wood.
- Freeman Boynton, Jr. asks Paul if the DRB asked him about narrowing the gauge.
- Paul Brogna states that yes, they did and if we narrow it, we could lower it, one of the DRB members did ask that.
- Freeman Boynton, Jr. asks if the handrails go outside the decking.
- Paul answers, stating no they go inside as per the regulations and discussed with Mr. Grady – it's 4' from outside of handrail to outside of handrail. The effective depth is about 3.3 or 3.5 with effective width with a 4' wide decking.
- Freeman Boynton, Jr. asks if he'd consider the end of Longview Road a public landing.

- Paul states that no, from what he knows, it is not because of wetland resource area that's there.
- Freeman Boynton, Jr asks if the wetland resource area is a salt marsh.
- Paul answers, yes the resource area at the end of the pavement on Longview.
- Freeman states there are public landings that have salt marshes.
- Paul Brogna states there are a lot of them but usually there is some kind of walkway to the water but here there is nothing.
- Freeman Boynton, Jr asks what the required setback from a landing.
- Paul responds, stating 50'.
- Freeman asks what it is from a property line.
- Paul responds that it is 15' for a sideline structure, and the Corps and the State like to see 25' if the width of the property is at least 50' in width
- Freeman Boynton, Jr asks if this is ok then, only 4.5' off the lot line.
- Paul Brogna states that yes, it is pre-existing nonconforming.
- The Board and Paul Brogna discuss the existing conditions on a plan that depicts the pier and discuss if it is closer in the picture than the specs.
- Paul Brogna suggests that it be conditioned that it should be no closer than the existing.
- The Board discusses if this is a public landing, how to find out if it is, and the setbacks.
- Freeman and Paul discuss and it's determined it can be staked out before it begins.
- Dimitri Theodossiou asks if there will be new stairs.
- Paul Brogna states that yes, crossover stairs.
- Freeman Boynton, Jr. states that anything less than 30 sf doesn't have to meet zoning, so I'd imagine those are less than 30 sf.
- Each or total, Paul asks.
- Freeman Boynton, Jr. states whatever is within the 15' setback.
- Paul states that stairs aren't usually in the building setback.
- Freeman states that you can have 30 sf as long as it's in the 15' setback
- Paul Brogna states that these stairs are a little flexible as the property is unique in that it is flat all the way out [points out on plans], and it drops off a foot or a foot an half whereas other do 4,5,6 ft so the stairs are required on or near the mean high water line but what is unique here is that stairs are put where it makes sense to cross and it makes no sense to cross right here as there is no beach to cross over here.
- Freeman Boynton, Jr. states they could move it down. Paul Brogna states they can move it down 10 or 20'.
- Dimitri Theodossiou asks to clarify the need for the stairs.
- Paul Brogna states that the DEP requires that if you don't have 5' of height clearance for the average person to stop and walk under, then you need a set of crossover stairs and they usually measure the 5' from the lowest structural timber, so it's actually 5.8' above the salt marsh. The homeowners like the stairs overall as it gives them convenience.
- Emmett Sheehan asks if anyone has any questions.
- Freeman Boynton, Jr. asks Paul if he said the two properties to the West have too long a stretch of salt marshes to build a pier.
- Paul Brogna states that he knows that the Barnwell's property would be, from work he did over there, the one in the middle looks to be from the GIS maps if it's as long as the King's.

- Freeman states that the Murphy's next door would exceed the 200 and the one beyond there would too, so what if they shared a pier and zig zag it over the property.
- Paul Brogna responds, stating that the way the bylaw is written, each property must be legally authorized to have its own pier before combining and we did try to do one a couple of years ago out on Hornbeam and it didn't go through.
- Emmett Sheehan stated that yes, they wanted a sort of community pier.
- Paul Brogna stated that the 4 homeowners that have piers now – Hicks, Harrington, what used to be Sealund and O'Neil – those are 4 piers...
- The Board and Paul discuss that those homeowners wanted to share a pier, but the ZBA determined that since not one of the homeowners couldn't legally have one, none could.
- Emmett Sheehan asked if more questions. None.
- Freeman Boynton, Jr. makes a motion to close the hearing. Philip Thorn seconds. All in favor (5-0).
- Emmett Sheehan asks if there is any discussion. None.
- Philip Thorn makes a motion to include the following conditions – 1. The lot line will be no closer than the existing pier, 2. There will be no runway style lighting on the pier, and 3. The stairs will meet the 30 sf coverage in the 15' setback.
- Phillip Thorn makes a motion to approve the special permit, with the conditions he just stated.
- Emmett Sheehan seconds. All in favor (5-0).

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

Moved by: FB

Seconded by: PT

Number in favor: 5

Number opposed: 0

Motion: It was moved, seconded and unanimously voted to approve the special permit with conditions.

Moved by: PT

Seconded by: ES

Number in favor: 5

Number opposed: 0