



TOWN OF DUXBURY
BOARD OF APPEALS

DUXBURY BOARD OF APPEALS
MEETING MINUTES
December 14, 2023 @ 7:30 p.m.

TOWN CLERK
2024 APR 26 AM 9:55
DUXBURY, MASS.

ATTENDANCE: Emmett Sheehan, Tanya Trevisan, and Borys Gojnycz

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

CALL TO ORDER: Tanya Trevisan, Chair Pro Tem, 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 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 to continue the public hearing to November 27, 2023.*

ZBA Case #2023-20, McNerney, 12 Samoset Road: *The Board voted 3-0 to continue the opening of the public hearing to January 11, 2024.*

Emmett Sheehan makes a motion to adjourn. Tanya Trevisan seconds.

BOARD OF APPEALS MINUTES

Case No: 2023-09

Petitioner: The Winsor at Millbrook Station

Address: 50 Railroad Avenue

Date: December 14, 2023 Time: 7:30 p.m.

(Continued from November 9, 2023, October 12, 2023, September 28, 2023, July 13, 2023, June 22, 2023 and May 11, 2023)

Members present: Tanya Trevisan, Emmett Sheehan and Borys Gojnycz

Members Voting: Tanya Trevisan (CPT), Emmett Sheehan and Borys Gojnycz

Other persons present at the hearing: James Wasielewski, Building Commissioner & Lauren Haché, Principal Assistant

- Tanya Trevisan, CPT, re-opens the public hearing
- Emmett Sheehan asks Matthew Walsh, the Applicant, what they are looking to review tonight
- Matthew Walsh states it is premature for a comprehensive permit applicant to have to file an NOI with Conservation until after the ZBA votes. Con Comm is still proceeding, but I have asked that there be a stay with them until after this hearing. I did submit correspondence from Con Comm peer review as well as our peer review.
- Emmett States a memo from Bard Holmes, a supplemental memo from Design Review, what else
- Matt Walsh states we hired John Zimmer, a wetlands specialist that we hired to work with Lenore White, the Con Comm's Peer Reviewer along with Brad Holmes
- Discussions ensue regarding the wetland regulations and the peer review reports regarding the stream and whether it is perennial or intermittent, which dictates the buffer required.
- Brad Holmes, Environmental Consulting, addresses the Board and confirms that the stream is intermittent and not a perennial stream
- The Applicant states I have given you all of the evidence and I am hopeful the 40 days starts tonight meaning the public hearing closes, stating they won't give an extension for no reason
- Amy Kwezell, Town Counsel, states essentially if the Applicant is going to demand that the hearing is closed, I want to make it clear to the Applicant that no more information will be allowed to be submitted. We will meet and discuss the decision and vote, but no one is allowed to ask or make public comment. We cannot agree to continue the public hearing and agree to the 40 days, it's one or the other. We can continue and go over the decision with the Applicant or we close and go over the decision as a board. The extension ends tomorrow, so if the Applicant is demanding to close, we will have to close the hearing tonight and the Applicant will not have any input in the decision at all.
- Emmett Sheehan states I would like to close, I have heard enough

- Matt Walsh states I am aware that once the hearing is closed the evidence is no longer admissible. If what your saying is that the next meeting we would simply discuss a decision, then that would be wonderful
- Tanya Trevisan states does anyone in the public have any comments
- Borys Gojnycz states does this mean the Design review Board cannot submit any further comments
- Emmett Sheehan states I think they have given us their best and final
- Matt Walsh states John Zimmer is not online
- John Zimmer, South River Environmental, states that he was hired to assist with the Conservation Review and I reviewed in a site visit to delineated wetland resource areas with Lenore White the Con Comm Consultant and we determined that the stream is in fact intermittent, which is what the Commission had determined in the past
- Tanya Trevisan asks Town Counsel about this stream and if the Board can put a condition in the Comp permit decision that aligns with how Conservation decides
- Amy Kwesell states it's my understanding that the dueling over the river's protection is solely under the jurisdiction of the Conservation Commission. We can put in the standard condition that states that State and Federal rules and regs are complied with; I do have a question for the Applicant, who is vehemently stating that this project complies with all local zoning bylaws and so, if that is the case, then why is this a 40B
- Matt Walsh states because this is Neighborhood Business District and so my intention is to not have mixed use and housing only
- Amy Kwesell states so you are seeking a waiver and are not in complete compliance with the Bylaw
- Matt Walsh states we are seeking a waiver because we are not proposing mixed use
- Matt Walsh states I am willing to continue if we can meet and go over the decision and I can review a drafted decision before hand, but I have submitted everything
- Tanya Trevisan states Amy could you go over one more time the process if we do close the public hearing tonight
- Amy Kwesell states correct, when the hearing closes the applicant cannot speak
- Julia Chuslo, the Architect, responds to the Design review Board memo and states all of the revisions that they have made at the Design review Board's recommendations along the process
- Amy MacNab, 269 Old Tobey Garden Street, states could the Board clarify to the listener on whether the developer and the Board would have further communications once the hearing is closed. Could the Board clarify that all communications will cease if in the public hearing is closed this evening
- Emmett Sheehan states that is correct, all communications will end
- Matt Walsh states very quickly I understand what the process is once the hearing is closed
- Emmett Sheehan makes a motion to close the public hearing
- Borys Gojnycz seconds
- All in favor ES, BG, TT
- Amy Kwesell states could I have the dates for the January meeting dates

- Lauren Haché states January 11th
- Amy Kwezell states I will be here for the 11th anyways, so that will work and I will draft the decision to discuss on the 11th.

Motion: It was moved, seconded and voted (3-0) to close the public hearing.

Moved by: ES

Seconded by: BG

Number in favor: 3

Number opposed: 0