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DUXBURY, MASS.

TOWN OF DUXBURY



BOARD OF APPEALS

DUXBURY BOARD OF APPEALS MEETING MINUTES

July 12, 2018 @ 7:30 p.m.

ATTENDANCE: Wayne Dennison, Judith Barrett, Kathleen Muncey, Borys Gojncyz, Freeman Boynton, Jr., & Philip Thorn

CALL TO ORDER: Wayne Dennison called the meeting to order.

- **ZBA Case #2018-05 Hebert, Duxbury Animal Hospital, 103 Depot St.(Cont'd):** *The Board moved to accept the applicant's request for withdrawal (5-0).*
- **ZBA Case #2018-11 Webster Point Village (Cont'd):** *The Board voted to accept the applicant's request for withdrawal (5-0).*
- **ZBA Case #2018-11A Webster Point Village:** *The Board voted to approve the extension of the lapse date for the Comprehensive Permit and to waive the filing fee (4-1).*
- **ZBA Case #2018-10 McLaughlin, 685 Washington St., Special Permit:** *The Board voted to continue the public hearing until September 13, 2018.*

ADMINISTRATIVE

- a. **ZBA Case# 2017-14 Habel, 106 King Phillips Path:** The Board and Town Counsel advised applicant to reapply for his special permit as it cannot be amended.

BOARD OF APPEALS — MINUTES

Case No: 2018-05

Petitioner: Daniel Hebert

(Agent, Cavanaro Consulting)

Duxbury Animal Hospital

Address: 103 Depot Street

Case No: 2018-05

Date: July 12, 2018 Time: 7:30 p.m.

(Cont'd from May 10 & June 14, 2018)

The Board of Appeals will hold a public hearing in the Mural Room at Town Hall, 878 Tremont Street, on ~~Thursday, May 10, 2018~~ at 7:30 p.m. to consider the application of Daniel Hebert for a Special Permit under Article(s) 400 and 900, Section(s) 401.2 (3), 410.3 (6), and 906.2 of the Duxbury Protective Bylaw. The property is located at 103 Depot Street, Parcel No. 190-600-122 of the Duxbury Assessors Map, consisting of 0.95 acres in the Residential Compatibility District and owned by Daniel Hebert. The Applicant proposes to change the use of the pre-existing non-conforming dwelling from residential with a home occupation to a Veterinary Hospital use *only*. A Special Permit is required.

Members present: Wayne Dennison, Judith Barrett, Kathleen Muncey, Freeman Boynton, Jr., Borys Gojncyz & Philip Thorn

Members Voting: Judith Barrett, Kathleen Muncey, Borys Gojncyz & Freeman Boynton, Jr.

Other persons present at the hearing: Scott Lambiase, Director of Municipal Services, Amy Kwesell of KP Law & Angela Ball, Administrative Assistant

- Wayne Dennison, Chairman, calls the meeting to order and states that he will reorder the agenda and hear administrative matters at the end of the meeting.
- Wayne Dennison states that a continued matter for the Duxbury Animal Hospital is on the agenda and establishes that four of the five original sitting members are present – Judith Barrett, Kathleen Muncey, Borys Gojncyz & Freeman Boynton, Jr.
- Daniel Hebert thanks the Board and explains that he has decided to take the advice of the Board and to go to Town meeting on September 6th, so he hopes to see all again very soon.
- Judith Barrett motions to accept the withdrawal. Freeman Boynton, Jr. seconds. All in favor, 4-0.

Motion: Motion: It was moved, seconded and unanimously voted to accept the withdrawal.

Moved by: JB

Seconded by: FB

Number in favor: 4

Number opposed: 0

BOARD OF APPEALS — MINUTES

Applicant: Webster Point Village LLC

Property Address: 0 Tremont Street

Case No: 2018-11

Date: July 12, 2018 Time: 7:30p.m.

Members present: Wayne Dennison, Judith Barrett, Kathleen Muncey, Freeman Boynton, Jr., Borys Gojncyz & Philip Thorn

Members Voting: Wayne Dennison, Judith Barrett, Kathleen Muncey, Freeman Boynton, Jr., & Borys Gojncyz

Other persons present at the hearing: Scott Lambiase, Director of Municipal Services; Amy Kwesell, Esq. of KP Law & Angela Ball, Administrative Assistant

1) #2018-11

The Board of Appeals will hold a public hearing in the Mural Room at Town Hall, 878 Tremont Street, on ~~Thursday, June 14, 2018~~ at 7:30 p.m. to consider the request of Webster Point Village to Modify the Comprehensive Permit for the Webster Point Village 40B Project, as modified through August 6, 2015, by replacing the required Conservation Restriction for the Restricted Area ("CR") from a permanent CR under c. 184, s. 31 to a 30-year CR under c. 184, s. 23. The property is located at 0 Tremont Street (Rt. 139) and Duck Hill Road, Parcel No. 104-002-003 of the Duxbury Assessors Map, consisting of 18.40 +/- acres in the Residential Compatibility District and owned by Ferrante Gioioso and Francesco Gioioso. On April 19, 2018, the Board of Appeals determined that the Applicant's proposal requires a public hearing as it constitutes a substantial modification to the existing permit. Any individual with a disability may request accommodation in order to participate in the public hearing and may request the application and any accompanying materials in an accessible format. Such requests should be made at least three business days in advance by contacting the Municipal Services Department.

2) #2018-11A

The Board of Appeals will hold a public hearing in the Mural Room at Town Hall, 878 Tremont Street, on Thursday, July 12, 2018 at 7:30 p.m. to consider the request of Webster Point Village to Modify the Comprehensive Permit for the Webster Point Village 40B Project, as modified through August 6, 2015, by extending the time period for commencement of construction for a period of one (1) year, from August 6, 2018 to August 6, 2019. The property is located at 0 Tremont Street (Rt. 139) and Duck Hill Road, Parcel No. 104-002-003 of the Duxbury Assessors Map, consisting of 18.40 +/- acres in the Residential Compatibility District and owned by Ferrante Gioioso and Francesco Gioioso. On June 14, 2018, the Board of Appeals determined that the Applicant's proposal requires a public hearing as it constitutes a substantial modification to the existing permit. Any individual with a disability may request accommodation in order to participate in the public hearing and may request the application and any accompanying materials in an accessible format. Such requests should be made at least three business days in advance by contacting the Municipal Services Department.

- Wayne Dennison opens the public hearing for Webster Point Village and explains that the Applicant has requested to withdraw request for conservation restriction. Mr. Dennison asks if Applicant is there. No.

- Wayne Dennison states that they have also asked to extend the lapse date on the comprehensive permit, but points out that no one is there to talk about it.
- Judith Barrett asks if there is correspondence, did they submit a letter.
- Angela Ball states that it was her understanding that the applicant would be there but the attorney would not be and that they've also submitted a request to waive the filing fee for the lapse date request.
- Wayne Dennison asks who sat on Webster Point Village.
- Angela Ball explains that if they are talking about the conservation restriction request, then no one yet since it hasn't come to a public hearing.
- Wayne Dennison asks when the next meeting is. Angela Ball replies July 26th.
- Amy Kwesell states that at another meeting they deemed the request substantial, so they should grant or deny the request and that they should act.
- Wayne Dennison and Judith Barrett concur that wasn't what the substantial request was about; it was about removing the CR.
- Amy Kwesell states they are asking to extend the permit and that in a letter dated June 13th he requested that along with deeming it insubstantial. Amy goes on to state that she suggests either opening it and acting on it or opening it and continuing it to the next meeting.
- Wayne Dennison states that no one is there, then he acknowledges that Mr. Witten in the audience would like to speak and invites him to do so.
- Jon Witten states his name and that he represents the neighborhood association. Mr. Witten goes on to state that what is before the Board is two things – a request to withdraw their modification of the comp permit, which the neighborhood association is in favor of and would ask the Board to act on it, the second is to extend the Comp permit life by a year, a request that the association has taken no position on, but they are supportive of the withdrawal request.
- Frank Giosio of Sprague Realty Trust and manager of Webster Point Village explains that he and his attorney would like to withdraw the CR request.
- Wayne Dennison states that he thinks all will approve that and could he speak to the other matters.
- Frank Giosio states that they are asking them to extend the comp permit by one year as Marshfield did.
- Freeman Boynton, Jr. states they'd also like to waive the fee.
- Wayne Dennison asks what the fee is.
- Frank Giosio states it's \$2,000 and that fee is for an application of a subdivision and this is just an extension.
- Wayne Dennison states he'd much prefer for someone to come in and explain what they want.
- Judith Barrett concurs, stating there should be an application before the Board and they do not have that.
- Amy Kwesell states that the Board is in a tough position as Marshfield has already granted the extension.
- Wayne Dennison states we grant extensions routinely, but what about the waiver of the fee.
- Amy Kwesell states that is a policy question; there is nothing that states you have to waive the fee.
- Frank Giosio states that he submitted a letter requesting the fee waiver and reads from his (attorney's) letter regarding the waiver.

- Wayne Dennison states that for us to extend this for a year is negligible; he then asks if there is anyone that would like to speak in regards to the matter of Webster Point Village request to extend the start date or to waive the fee. No.
- Wayne Dennison makes a motion to close the public hearing. Borys Gojyncz seconds. All in favor, 5-0.
- The Board discusses that there is no application in front of them to act on. Wayne Dennison asks for counsel's advice.
- Amy Kwesell states that under the regulations it says the applicant may request and she isn't sure an application is required; however, I do think the imposition of the filing fee is in line with your regulations. She also states that if your 40B regulations require an application, then one should be filed.
- Frank Giosio states that the Town of Marshfield accepted the request just via letter.
- Wayne Dennison moves to approve the extension request from August 6, 2018 until August 6, 2019 and to waive the filing fee. Kathy Muncey seconds. 4 in favor, 1 opposed (Judith Barrett).
- The Board discusses the withdrawal request and asserts the vote is 5-0.

Motion: It was moved, seconded and voted to close the public hearing for Webster Point Village, #2018-11A.

Moved by: WD Seconded by: BG
Number in favor: 5 Number opposed: 0

Motion: It was moved, seconded and voted to approve the extension of the Comprehensive Permit for Webster Point Village and to waive the associated filing fee of the request.

Moved by: WD Seconded by: KM
Number in favor: 4 Number opposed: 1

Motion: Motion: It was unanimously voted to accept the withdrawal of the CR request for Webster Point Village, #2018-11.

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

BOARD OF APPEALS — MINUTES

Applicant: John McLaughlin

(Paul Brogna, Agent)

Property Address: 685 Washington Street

Case No: 2018-10

Date: July 12, 2018 Time: 7:30 p.m.

(Cont'd from June 28, 2018)

The Board of Appeals will hold a public hearing in the Mural Room at Town Hall, 878 Tremont Street, on ~~Thursday, June 28, 2018~~ at 7:30 p.m. to consider the application of John McLaughlin 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 685 Washington Street, Parcel No. 117-147-000 of the Duxbury Assessors Map, consisting of 3.79 acres in the Residential Compatibility & Wetlands Protection Overlay Districts and owned by John G. and Doreen K. McLaughlin. The Applicant proposes to construct a new pier. A Special Permit is required.

Members present: Wayne Dennison, Judith Barrett, Kathleen Muncey, Freeman Boynton, Jr., Borys Gojncyz & Philip Thorn

Members Voting: Wayne Dennison, Judith Barrett, Kathleen Muncey, Borys Gojncyz & Freeman Boynton, Jr.

Other persons present at the hearing: Scott Lambiase, Director of Municipal Services, Amy Kwesell of KP Law & Angela Ball, Administrative Assistant

- Wayne Dennison opens the public hearing for 685 Washington Street and reads the notice into record. Mr. Dennison goes on to state there is a great deal of correspondence and he will go through all in a perfunctory way and explains the order of events of the meeting.
- James Lampert asks if those in support or the public will be able to speak first.
- Wayne Dennison states that it'll be the applicant first then everyone else.
- Freeman Boynton, Jr. discloses that he did work for the applicant about 9 years ago and asks Town Counsel's advice and if it is a conflict.
- Amy Kwesell asks if he currently has any association and if there is any financial benefit from him approving or denying.
- Freeman Boynton, Jr. states no.
- The Board decides on quorum/voting members are decided on – Wayne, Judi, Kathy, Freeman & Borys.
- Wayne Dennison cites, and reads some in part, the application, plans, memo from the Board of Health, Memo from the Design Review Board, Planning Board Memo. Mr. Dennison cites that there is a Conservation Commission Memo, but asks for advice from Town Counsel about the memo.
- Amy Kwesell describes the history with the Conservation Commission and states that the settlement agreement referenced was that Con Com agreed to not appeal any further than Superior Court, but there is no language that the Commission is silenced; however the Duxbury Wetland Bylaw cannot be taken into consideration, but the Zoning Bylaw can be. Amy Kwesell suggests that the review be under section 404 of the zoning Bylaw.
- Wayne Dennison reads the Conservation Commission Memo dated June 19, 2018 into record.
- Wayne Dennison cites and reads some in part, a memo from the Historic Commission, a supplemental letter from Seacoast Engineering with revised plans, a letter from Atty.

Driscoll to Joe Grady, a letter to me from Driscoll & Gibson and states there is a number of submissions from people in Town and that he is going to ask who's here and I'll let you talk to us, otherwise I'll read into record.

- Wayne Dennison states Kathy Palmer. Response: Here.
- Wayne Dennison states Nancy & John Powell. Response: None.
- Wayne Dennison reads letter from Nancy & John Powell into record.
- Wayne Dennison states Sherman Hoyt. Response: Here.
- Wayne Dennison states Bill TenHoor. Response: He will be here if continued.
- Wayne Dennison states Frank Holden Response: He'll be away this week.
- Wayne Dennison states Robert & Elizabeth Loring. Response: None.
- Wayne Dennison reads the letter from Robert & Elizabeth Loring into record.
- Wayne Dennison states John Palmer. Response: Kathy Palmer asks if she may speak. Judith Barrett & Wayne Dennison explain that later she can and now they are going through the correspondence.
- Wayne Dennison states Hall. Response: Here.
- Wayne Dennison states Preservation MA. Response: None
- Wayne Dennison reads letter from Preservation MA into record.
- Wayne Dennison states Guitart. Response: Here.
- Wayne Dennison states Palmer. Response: Here.
- Wayne Dennison states Jim Lampert. Response: Here.
- Wayne Dennison states McCormick. Response: Here.
- Wayne Dennison states Lynch-Benttinen. Response: None.
- Wayne Dennison reads letter from Lynch-Benttinen into record and a letter from Tearse.
- Wayne Dennison states they will hear from the Applicant next.
- Paul Brogna identifies himself, states that the McLaughlins purchased the property in April of 2007 and have preserved the property well, then Mr. Brogna goes on to explain that he and Atty. Driscoll will speak and present. Mr. Brogna states it is his obligation to present complete and accurate drawings, part of which is revisions to the plan per new FEMA maps and the Planning Board recommendations. Mr. Brogna states that the McLaughlin pier will be the smallest he has designed and at the lowest legal level. Mr. Brogna goes over the by-laws cited in the application, describes the dimensional details of the proposed pier and emphasizes it is not in open water, that all specifications have been approved.
- A member of the audience asks if it is 3.8' above ground. Wayne Dennison states questions will come later
- Wayne Dennison asks Mr. Brogna about diagram 5.
- Paul Brogna responds stating it is a gangway that goes halfway and is seasonal. Mr. Brogna goes on to state that there are 23 other structures on the blue fish river side, some with special permits and some without. Mr. Brogna goes over the bylaw with regard to special permits in sections 404.6, 404.7, 404.8. He states that with regard to 404.9 a few years were spent on the committee developing the bylaw and 67% in Town approved and then he reads from Bill TenHoor's letter.
- Wayne Dennison asks Paul about the Planning Board's Memo that suggested it was 2 rails.
- Paul Brogna states that it is different, that with Rev 3 they missed the word double handrail, that it was simply a typo and the handrail is single. Mr. Brogna then holds up a sample of the rail, stating it is the thinnest. Mr. Brogna goes on to states that they are in compliance with 410.4 and have also met all the requirements under 906.2. Mr. Brogna submitted pictures to the Board, then goes on to states that this pier will be installed from an elevated position, that wood will be standard, walkway will be at a lower elevation.
- Fernando Guitart asked if the Board could ask a question to clarify.
- Wayne Dennison states that the Applicant will first complete his presentation, then as long as all are respectful, we'll have opportunity for questions.

- Paul Brogna states that he ran some numbers and determined that we have about 4 acres here and therefore the coverage is low.
- Freeman Boynton, Jr. asks what the railings on the Rogerson pier are.
- Brogna responds, stating it is rope.
- Mr. Brogna responds, stating that that no matter how we design the project, we don't meet it and it's not required.
- Scott Lambiase states that it is and that anywhere with 30" above grade requires a handrail and technically the building code would require it on both sides, so if this board approves it they may have to go to BBRS and ask for a waiver to get rid of the other handrail.
- Freeman Boynton, Jr. asks if the pier could be designed to not require handrails, seemingly the most visible aspect of the pier.
- Scott Lambiase states if you are 30" or less to grade.
- Wayne Dennison states that 2.5' wouldn't require a handrail.
- Borys Gojncyz asks about the plastic coating on the handrail and what the life expectancy is.
- Paul Brogna states that it has weathered well in his experience.
- Freeman Boynton, Jr. asks what the Marshall Street pier railing consists of.
- Paul Brogna responds, stating rope and asking if there are any more questions. None.
- Paul Driscoll identifies himself as counsel to the McLaughlins and states that he'd like to start with the legal question that he heard Town Counsel weigh in that even though the Duxbury Wetlands Bylaw cannot be considered that it doesn't mean the Conservation Commission is silenced. Mr. Driscoll states that in 2010 when they applied and were turned down by the Conservation Commission and we appealed and prevailed with a superseding order of the DEP and from Superior Court in 2013 and over time we had 11 hearings and in 2015 the Conservation Commission closed the public hearing and they had 21 days to issue a decision and it was not issued until the 22nd day, 1 day late.
- Wayne Dennison asks Mr. Driscoll to jump to the point, that he understands as Town Counsel has advised them that the Wetland Bylaw does not apply, town regulations in excess of DEP doesn't apply, and we know that.
- Paul Driscoll states that yes, they entered into a settlement with the town and the town agreed not to appeal.
- Wayne Dennison states that the issue he has is that we don't apply the Wetland Bylaw, we apply the zoning bylaw.
- Paul Driscoll states that he is concerned about evidence, now and later, that Mrs. Palmer dropped off documents from the past and although they don't apply she's got it in record now and I'll say same regarding Mr. Grady's memo and I'm concerned with memo.
- Wayne Dennison states that we listen to irrelevant stuff all the time and we sort through it for relevance.
- Paul Driscoll states that for the record, my objection is that anything that purports to relate to the Conservation Bylaw enforcement is not applicable.
- Wayne Dennison states that it is on the record.
- Judith Barrett states that we have Con Comm as a reviewing party and under zoning bylaw the Con Comm is explicitly listed as a reviewing party.
- Paul Driscoll states that they forfeited that right.
- Judith Barrett disagrees, stating not under 40A.
- Paul Driscoll discusses a preservation agreement that Mr. McLaughlin entered into
- Wayne Dennison states that they are not there to sort out land use; we do the zoning by law so if someone has a deed issue, they have rights to proceed but it is not here.
- Mr. Driscoll states he'd like an opportunity to respond to Mr. Lampert's submission after his presentation.

- Wayne Dennison states that Counsel will be able to handle that and then reminds Mr. Driscoll that the goal here is to let people say their piece and that everyone will get a chance.
- Mr. Driscoll states that components of 404.20 might come up which are #1, the length of the pier, that it can't be off a straight compass course but he argues that it can be as it's been circumvented in the past by walking over part of the salt marsh and then to the pier but that makes no sense to preserving the salt marsh and #2 is that you'd have to reach the water's edge and another is the definition of open water and tidal creek, but my argument is that you can't add language to the bylaw that isn't there and delves into the Conservation Commission regs reiterations
- Wayne Dennison points out that he is beginning to discuss Con Comm regulations that you also said do not apply because you won the initial litigation
- Mr. Driscoll states that he is providing the argument as he doesn't know the ultimate decision.
- Wayne Dennison asks if anyone has any questions of Mr. Driscoll. None.
- Paul Driscoll states that he will discuss the benefits of the pier to the Town and include another part of the bylaw, section 101 that talks about benefits to the homeowner. Mr. Driscoll states that it's a benefit to the Town when all homeowners are treated the same – he cites instances of piers being approved in and around the blue fish river.
- Mr. Driscoll goes on to address components of 906.2, stating they comply #1 is considering nearby land uses and this is suitable location, #2 is to consider if uses of the site would be displaced or pre-empted and no, there'd be no other uses of the site, and summarizes his point, stating that this would be 1 of 23 piers already in area.
- Kathy Palmer of Friends of Bluefish River states that they have quite a few points they'd like to refute and point out.
- Judith Barrett acknowledges the large crowd and assures that a larger facility will be secured for next meeting.
- Wayne Dennison states that all have a right to speak here, and it will be done if reasonable with time.
- Jim Lampert states that he thinks it'll be well after 10pm before FOBR presentation is over and that he can get through about halfway through his presentation.
- Wayne Dennison states there is no way we'll get through this tonight, we don't meet in August, so the next meeting will be Sept. 13th.
- Judith Barrett, Wayne Dennison and Amy Kwesell discuss availability and then Wayne Dennison invites next person to speak.
- Fernando Guitart of 14 Powder Point Avenue states he is an abutter within 300' and feels that this is a 'big deal' because this pier does not meet the process, substance, goals and substance required. He introduces Jim Lampert to speak.
- Jim Lampert states he is not an abutter but is concerned about the zoning bylaw and that this application is not the zba's job. Mr. Lampert makes several points with his presentation, notably that the bylaw requires you to reach open water with a pier and this does not, the WPD requires you to protect sensitive areas and this does not, that despite Mr. Driscoll stating you must ignore wetlands issues they still apply as does Conservation's past denial of this pier.
- Wayne Dennison asks if Con Comm has forfeited their right to weigh in.
- James Lampert states that no, they haven't as the zoning bylaw specifically states you must ask for CC comments with special permits and they are recognized as the authority to approve conditions for which special permits have to meet.
- Wayne Dennison asks if it's in the scope of its jurisdiction.
- Jim Lampert states it's 2 jurisdictions – regulatory and advisory.
- Lenore White of Wetlands Strategies states she represents Friends of the Bluefish River (FOBR) and goes on to state that CC issued a denial under the Wetland Bylaw and also

denied it under the Wetlands Protection Act and it's still under appeal and there is no final order.

- James Lampert states the FOBR has a pending motion to interfere.
- Wayne Dennison asks if DEP has approved this
- James Lampert states that they have received regulatory approval, different than CC approval and CC has NOT approved any plans. He points out that the 1st and 2nd plans are different and despite differences I'd say CC should decide and opine.
- Wayne Dennison asks if he's suggesting that the applicant would have an issue if they went back to CC.
- James Lampert states he's suggesting that the plans are different.
- Judith Barrett states that you are citing 404.9 and can you comment on the applicability of 404.9 to a pier application as it's not really applicable to piers.
- James Lampert and Judith Barrett disagree over the applicability of 404.9.
- James Lampert argues that the late filing of the Con Comm's decision does not mean it should be ignored.
- Wayne Dennison states that he understands his point, but asks if the Town goes through the effort of settling a lawsuit then why would we parse all Town has agreed to settle.
- James Lampert states that they said two things: 1, they are not going to appeal and 2. Not going to preclude DEP and Jim asks why facts disappear.
- Wayne Dennison points out that all are facts chosen to abandon.
- James Lampert goes on to argue that evidence before the board is that the tidal creek is part of salt marsh, not a disputable fact.
- Wayne Dennison asks if the difference between the May and June plans is just the FEMA maps and if he has any response there.
- James Lampert states that he believes the plans depict the line dividing the tidal flat from the creek effectively cutting the flat in half.
- Wayne Dennison asks Mr. Brogna to explain.
- Paul Brogna confirms that it's a FEMA line, not tidal separation.
- Wayne Dennison states that the plans from 2015 aren't the same and the difference is that per Brogna's presentation the changes are due to FEMA and clerical updates.
- James Lampert states he understands there are more changes and he can bring old plans to next meeting and point out.
- Paul Driscoll states that the argument that there is no forfeiture here is wrong – a judge said the local bylaw does not apply and assuming a superseding order of conditions the party can proceed. Mr. Driscoll goes on to state that they are asking for their rights back and that cannot happen.
- Judith Barrett states that she sees that group one says one thing and another group says another, but they enforce the zoning bylaw and may need an independent consultant, a peer review to help them understand if they are keeping the bylaw true and if the CC can be silenced. She goes on to state that we can get some quotes.
- Wayne Dennison agrees with Judith Barrett regarding consultant.
- Doreen McLaughlin [not positive on identity, she didn't identify herself] asks that you feel this is necessary as it's most complicated.
- Judith Barrett states that it is a complicated issue and a consultant would help.
- James Lampert asks if he may state his position and goes on to say it's the Board's job to sort through evidence.
- Judith Barrett & Wayne Dennison agree the Board would benefit from assistance.
- Amy Kwessel states that she suggests that if there is a proposal for a consultant that they look at 404 of the zoning bylaw, not the wetland bylaw.
- Wayne Dennison states that any legal argument anyone has may be submitted to the Board in writing before the next meeting.
- Wayne Dennison suggests adjourning.

- Paul Brogna asks about the process for a peer review and if the applicant has the right to choose.
- Judith Barrett states that the Board will choose the consultant.
- The Board agrees as a group they should hire a consultant.
- Wayne Dennison suggests we meet in 2 weeks to hear from abutters.
- Amy Kwessel suggests making a decision on a consultant at a public meeting.
- Wayne Dennison asks the applicant if they think it'll be useful to come back in 2 weeks.
- Paul Brogna states that we must agree on price and time frame.
- Judith Barrett suggests they make the time frame part of the proposal.
- Kathy Palmer asks if their evidence will be considered.
- Judith Barrett explains that a peer review is not to vet documents, but to look at the bylaw and the application.
- James Lampert and Paul Driscoll express concerns about the scope of the review.
- Amy Kwessel states that this will be a technical review, not a legal review.
- Paul Brogna begins to argue that they've committed that pier would not change and we have wetlands experts and...
- Amy Kwessel states that not in 404, it's not applicable.
- Wayne Dennison states that anything submitted within 2 weeks' time will be given to KP Law to review and make a recommendation on the legality issue
- Amy Kwessel and Paul Brogna discuss the applicability of 404.20 #2.
- The Board and Amy discuss that a consultant will likely be from a firm that has a registered land surveyor and a PE.
- The Board decides to delegate the final consultant decision to staff and to have the next meeting at a larger facility.
- Judith Barrett makes a motion to continue the public hearing until September 13, 2018.
- Wayne Dennison seconds. All in favor (5-0).

Motion: It was moved, seconded and unanimously voted to continue the hearing until September 13, 2018.

Moved by: JB
Number in favor: 3

Seconded by: WD
Number opposed: 0

BOARD OF APPEALS — MINUTES

Applicant: Christopher Habel

Property Address: 106 King Phillips Path

Case No: 2017-14

Date: July 12, 2018

ADMINISTRATIVE

~~The Board of Appeals will hold a public hearing in the Mural Room at Town Hall, 878 Tremont Street, on Thursday, January 11, 2018 at 7:30 p.m. to consider the application of Christopher Habel for a Special Permit under Article(s) 400 and 900, Section(s) 401.2 #5 and 906.2 of the Duxbury Protective Bylaw. The property is located at 106A King Phillips Path, Parcel No. 028-013-005 of the Duxbury Assessors Map, consisting of 3 acres in the Residential Compatibility & Planned Development #1 Districts and owned by Christopher J. Habel. The applicant proposes to alter an existing structure on a lot containing two dwellings. A Special Permit is required~~

Members present: Wayne Dennison, Judith Barrett, Kathleen Muncey, Borys Gojncyz Freeman Boynton, Jr., & Philip Thorn

Members Voting: N/A

Other persons present: Scott Lambiase, Director of Municipal Services;
Amy Kwesell, Esq. of KP Law & Angela Ball, Administrative Assistant

- Chris Habel explains that he'd like to request an amendment to his special permit.
- Judith Barrett explains that we cannot do amendments.
- Amy Kwessel states that since a decision was never rendered there is nothing to amend and since he is requesting more work the best path would be for him to reapply with all the work in there.
- Chris Habel states it was over 90 days and he didn't get the first decision.
- The Board agrees to waive the filing fees, but Scott Lambiase states he'll have to pay for building permit fees and new advertisements.
- All discuss the most efficient and fair ways for Mr. Habel to refile his application.
- Mr. Lambiase points out that the DRB did review his proposal and the changes.
- All agree to have Mr. Habel reapply as the best course of action and to have him go first at the meeting for convenience.

Motion: It was moved, seconded and unanimously voted to adjourn the meeting.

Moved by: WD

Number in favor: 5

Seconded by: JB

Number opposed: 0