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TOWN OF DUXBURY



BOARD OF APPEALS

DUXBURY BOARD OF APPEALS

MEETING MINUTES

November 8, 2018 @ 7:30 p.m.

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

CALL TO ORDER: Judith Barrett, Chair Pro Tem, calls the meeting to order.

- **ZBA Case # 2018-10 McLaughlin, 685 Washington St., Special Permit:** *The Board voted to continue the hearing until December 12, 2018. All in favor.*
- **ZBA Case #2018-18 McDonnell, 1 Fort Hill Lane, Special Permit:** *The Board voted to continue the hearing until December 13, 2018. All in favor.*
- **South Shore Habitat for Humanity, Feinberg Bog Road:** *The Board moved to deem the proposed changes insubstantial. All in favor.*

The Board moved to approve the meeting minutes from July 12, 2018.

BOARD OF APPEALS — MINUTES

Applicant: John McLaughlin

(Paul Brogna, Agent)

Property Address: 685 Washington Street

Case No: 2018-10

Date: November 8, 2018 Time: 7:30 p.m.

(Cont'd from June 28th, July 12th & Sept. 13th 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.

******The public hearing for the application was closed on September 13, 2018. Meetings held after that date are for deliberations only and are public MEETINGS, not hearings.***

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

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

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

- Judith Barrett, CPT, calls the meeting to order and states that she will reorder the agenda. Ms. Barrett goes on to state that they'd like to deliberate on McLaughlin pier and we'd like to change this to a special meeting and asks the Board if all can make it December 4th.
- Amy Kwesell states that she has a conflict on that date and asks if they can do the 12th with a 5 day 90 day decision extension.
- Judith Barrett asks all if they are amenable.
- Amy Kwesell states that there would be a decision extension until the 18th.
- The Applicant and the Board agree on December 12th at 7pm with a decision extension until December 18th.
- Freeman Boynton, Jr. makes a motion to continue the meeting/deliberations until December 12, 2018. Kathleen Muncey seconds. All in favor.

Motion: Motion: It was moved, seconded and unanimously voted to continue the hearing until December 12, 2018.

Moved by: FB

Number in favor: 5

Seconded by: KM

Number opposed: 0

BOARD OF APPEALS — MINUTES

Case No: 2018-18

Petitioner: Joan McDonnell

Address: 1 Fort Hill Lane

Case No: 2018-18

Date: November 8, 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, November 8, 2018 at 7:30 p.m. to consider the application of Joan McDonnell for a Special Permit under Article(s) 400 and 900, Section(s) 401.2 #4, 410.4, and 906.2 of the Duxbury Protective Bylaw. The property is located at 1 Fort Hill lane, Parcel No. 117-159-002 of the Duxbury Assessors Map, consisting of 4,356 S.F. in the Residential Compatibility District and owned by George P. McDonnell. The Applicant proposes to demolish a pre-existing, nonconforming garage and rebuild within the existing footprint. A Special Permit is required.

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

Members Voting: Kathleen Muncey, Freeman Boynton, Jr., Philip Thorn, Emmett Sheehan & Freeman Boynton, Jr.

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

- Judith Barrett states that the next case on the agenda is for Fort Hill Lane. She reads the public hearing notice into record and begins to go over the correspondence, citing and reading, some in part: A brief from the Applicant Joan McDonnell, a Memo from the Conservation Commission, a Memo from the Planning Board, a Memo from the Board of Health, a Memo from the Design Review Board, an email from resident Weise, and an email from resident Martha Allen.
- Judith Barrett invites the applicant to present the case.
- Mike Cart states he is there to present on behalf of Joan McDonnell, the applicant. He goes on to describe the proposal, stating that it will be less coverage than the existing, that the extra space with the dormer is for more headroom, not work room and that they'd like to maintain the height. Mike states that the grade is 22'H and is well below the existing of 5'9", he explains that Joan realizes if she shifts the building then she'll pull back hedge and plans to put plantings back, that she has a small yard and the house is oriented away that gives a little privacy and she'd like to preserve that space. Mike Cart states the lot coverage is a minimum and right now she has only 160 sf of storage now, so she's trying to get storage and some office and work out space.
- Judith Barrett asks the Board if there are questions.
- Emmett Sheehan asks what existing garage dimensions are.
- Mike Cart answers, stating it's 221 sf and new is 322 sf and that they are removing 2 sheds as well and replacing with 1.
- Emmett Sheehan asks where neighbor that wrote the letter lives.

- Judith Barrett states it is to the east of the property.
- Joan McDonnell states she has another letter of support in-hand from Rose White.
- Judith Barrett takes the letter for the record and reads it aloud.
- Judith Barrett asks about the Design Review Board and their comments about the windows.
- Joan McDonnell explains that she was trying to give neighbor more privacy and they said it'd look better with 3, but architect said 3 could be tight.
- Kathleen Muncey asks if she agreed to reduce the height.
- Joan McDonnell states that on the first floor she really can't too much, but could do it by 6".
- Judith Barrett states that the DRB memo indicates that she'd be ok with taller windows
- Mike Cart states they are 6x6 on bottom there's triple and it emulates what's above.
- Philip Thorn asks if it's a functional barn door.
- Joan explains that she'd like to be able to pull it across for security purposes.
- Borys Gojncyz asks if Scott Perry did the drawings.
- Mike Cart answers, no, it was Dennis Nolan
- Richard Cerke, states he represents the Parrinos, neighbors to the south and explains that Joan has an easement to her property and the plan shows extension lines of the new bldg. and that it seems she'd be able to use her own property rather than the easement and that they do not have an issue with the project other than they want a condition regarding the utility wire that'll be impacted. Mr. Cerke explains that if project is approved, Dr. Parrino would like Joan to pay for relocation of electrical service for the Parrinos.
- Dr. Parrino states that it'd be tough to put a wire underground for his home, but that he could get in from western side of house he found out from Eversource, but the cost is unclear as of yet, but he would think it's between 7-10 thousand; but other option is not feasible as going up the driveway isn't an option and yard is 40% occupied by septic and that Joan researched all this and said electrician said she couldn't go underground.
- Richard Cerke states that the other option is that we'd pay for relocating the electricity if she were to give up her easement.
- Emmet Sheehan asks if she's taking down 3 little structures and make only one and wonders if it's more of a guest house than a garage.
- Joan McDonnell states that she doesn't use the garage as a garage and as far as what Dr. Parrino said, his house is on Washington Street and I've never noticed and I don't think the wire has anything to do with this special permit request part. If I give up the easement, it'd have a negative impact and I'm not willing to give it up right now. Joan goes on to states that she thinks her proposal will enhance the property and the sheds are old and should be removed.
- Kathleen Muncey asks if we've done this before.
- Scott Lambiase states that yes, coverage is coverage.
- Kathleen Muncey states that it's preexisting, but we are consolidating and wonders if they can build and keep over the power line or if line can co-exist with structure. Judith Barrett asks the same.
- Joan McDonnell states it's not to code; then, that it's very close and it'd come by one fo the dormers and through my yard.
- Judith Barrett states that the Board can put limitations on the granting.
- Kathleen Muncey asks if the property if registered or unregistered.

- Richard Cerke states it's unregistered, and that there's more than one way to get an easement and he points out that Ms. McDonnell doesn't like the look of the pole so why not relocate it as the project would be substantially detrimental to the Parrinos.
- Kathleen Muncey asks if there is no record of easement now.
- Richard Cerke states that yes, it only shows electric coming from pole for decades and they'd need a judge to agree.
- Dr. Parrino explains that his wife is very ill and he relies on the electric and he just put in a generator to keep her at home for the winter comfortably and asks if they can plan to do this later when there is no risk of losing electricity from storms as it'll be a hardship right now. Dr. Parrino explains that he thinks that Joan should compensate him for cost and he has concerns about relocation of the driveway should it come to that as now when she parks it is very close.
- Kathleen Muncey asks if that won't happen with the new plan.
- Dr. Parrino states it is so narrow that his plow guy can't get in when Joan's car is there and thinks it'd be easier overall if they waited.
- Kathleen Muncey asks about coming off back of house and straight back.
- Dr. Parrino responds, stating that Eversource looked at it and it'll affect Joan's tree.
- Kathleen Muncey asks about a less costly alternative.
- Freeman Boynton, Jr. asks about the pole on Washington Street and if that is an option. Freeman and Dr. Parrino discuss relocation of the pole.
- Judith Barrett states she thinks they should go out and see it.
- Emmett Sheehan states [directing question to Mike Cart] that you are a builder, what do you think.
- Mike Cart states that the building could be turned back a little bit.
- Kathleen Muncey states it can't go back at all.
- Borys Gojnycz asks about the options. Freeman asks if it can go underground.
- Dr. Parrino states that if he understands things correctly, there isn't a way to do that unless you put a pole in the driveway and that he has seen 3 different plot plans and he'd like a better idea of property lines.
- Judith Barrett suggests the Board find a date to go and see the property.
- Borys Gojnycz states it'd be nice to have plans ready.
- Judith Barrett states this all may be beyond their jurisdiction and strongly suggests working it out amongst each other.
- Dr. Parrino states he has a proposal for the electric, but not from Eversource and estimate is 7-9 thousand and he thinks a pole is 3-5 thousand.
- Freeman states you may be able to go underground.
- Joan McDonnell states that'd be the easiest and states she received options from Eversource, the least expensive going underground although there is a gas pipe under to consider. Ms. McDonnell states she'd like to come back to the board after this is resolved as it is a private matter and not applicable to her special permit request and notes she felt she was presented with an ultimatum from her neighbor before this meeting.
- Judith Barrett states she'd like to go out and see it.
- Freeman Boynton, Jr. states it seems they are getting closer to the setbacks on the property lines.
- Freeman, Richard Cerke, Scott Lambiase and the Board discuss setbacks from the road.
- Richard Cerke states that they told Ms. McDonnell that if she didn't want to pay for the relocation of the pole, the other option was giving up the easement.
- Freeman states he thinks she can't build the garage without moving the wire.
- Kathleen Muncey asks Scott Lambiase how that works with building permits

- Scott Lambiase states that he can have the wiring inspector take a look and if it's violation we wouldn't allow it, but he'd have to know the height.
- Kathleen Muncey states there might be a setback violation on Fort Hill Lane.
- Scott Lambiase states there would be.
- Amy Kwesell responds, stating that it's ok as it falls under the special permit request by increasing the nonconformity, whereas if they were making a new nonconformity they'd need a variance.
- Kathleen Muncey states that we are at 29.4 center set back, but we should be at 35.
- Amy Kwesell states that yes, that's why they are here.
- Judith Barrett states the conditions under which they need to look at the project.
- The Board discusses what date would work for a site visit.
- All decide on Monday, November 19, 2018 at 3:30 pm for a site visit with the wiring inspector.
- The Board and the Applicant discuss dates available to continue the hearing. All decide on Thursday, December 13, 2018.
- Emmett Sheehan makes a motion to continue the public hearing until December 13, 2018. Kathleen Muncey seconds. No discussion. All in favor, 5-0.

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

Moved by: ES
Number in favor: 5

Seconded by: KM
Number opposed: 0

BOARD OF APPEALS — MINUTES

Applicant: Feinberg Bog Road, DAHT

Property Address: 0 Temple Street

Case No: 2014-0020 (Comprehensive Permit, granted)

Date: November 8, 2018

South Shore Habitat for Humanity proposed to build 8'x10' sheds at the end of each driveway of six townhouse units in three duplex buildings for which they hold a Comprehensive Permit #2014-20. The Zoning Board of Appeals must review and decide, administratively, if their proposal is considered a substantial modification to the existing permit and would then require a public hearing.

ADMINISTRATIVE:

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

Members Voting: Kathleen Muncey, Borys Gojncyz, Philip Thorn, Emmett Sheehan & Freeman Boynton, Jr.

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

- Judith Barrett states they have a request from Habitat for Humanity and they must determine if it's substantial or insubstantial change to the Comp Permit and she reads the description of the changes and points out they have 20 days.
- James McNab identifies himself as the construction manager for South Shore Habitat for Humanity and describes the proposal that they'd like to add a shed per unit. He explains there are 3 buildings, 2 units and they'd like to add an 8x10 per unit for storage and to minimize impact for the neighbors. He states the proposal complies with setbacks.
- Emmett Sheehan asks what impact they'd be minimizing.
- James McNab states that two of the sheds would block lights from hitting their house.
- Judith Barrett asks how close the closest house is to the property line in this development.
- James McNab states it's about 50'. He goes on to state there is no change to the limits of work, they will make the sheds match the existing houses.
- The Board reviews drawings provided.
- Judith Barrett states that she'd like to review what is considered a substantial change under 40B regulations. She goes on to state it would be an increase of more than 10% of building, an increase of more than 10% in # of housing units etc. and does not think this is substantial.
- The Board discusses the parameters of the changes and if the neighborhood was considered. Yes.
- Freeman Boynton Jr. states he does not think it's a substantial change and asks if he can add fencing to help stop the lights.
- James McNab states that between the two sheds, building 1 and 2, there will be a berm with loam and spruce trees.
- Freeman Boynton, Jr. makes a motion that the change is insubstantial. Kathleen Muncey seconds. All in favor, 5-0.

Motion: It was moved, seconded and unanimously voted to approve the changes to the Comp Permit, #2014-20 and deem it insubstantial.

Moved by: FB

Seconded by: KM

Number in favor: 5

Number opposed: 0