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TOWN OF DUXBURY



BOARD OF APPEALS

DUXBURY BOARD OF APPEALS

MEETING MINUTES

December 13, 2018 @ 7:30 p.m.

ATTENDANCE: Wayne Dennison, Kathleen Muncey, Borys Gojnycz, Philip Thorn, Emmett Sheehan & Freeman Boynton, Jr.

CALL TO ORDER: Kathleen Muncey, Chair Pro Tem, calls the meeting to order.

- **ZBA Case #2018-18 McDonnell, 1 Fort Hill Lane, Special Permit (Cont'd):** *The Board voted to approve the special permit. All in favor.*
- **ZBA Case #2018-19 J Mark Waterfront, 397 Washington, Special Permit:** *The Board moved to continue the public hearing until January 24, 2019.*

BOARD OF APPEALS — MINUTES

Case No: 2018-18

Petitioner: Joan McDonnell

Address: 1 Fort Hill Lane

Case No: 2018-18

Date: December 13, 2018 Time: 7:30 p.m.

(Cont'd from November 8, 2018)

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: Wayne Dennison, Kathleen Muncey, Borys Gojnycz, Philip Thorn, Emmett Sheehan & Freeman Boynton, Jr.

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

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

- Kathleen Muncey, Chair Pro Tem, opens the public hearing and explains that this case is a continued case and the correspondence was read at the first meeting, the case was discussed and the Board decided to do a site visit since the primary reason was a power line crossing the property and they did that visit and there has been no correspondence since.
- Kathleen Muncey invites the applicant, Joan McDonnell to speak.
- Joan McDonnell states they had a site visit with 4 of the Board members, Scott Lambiase, the Town's electrical inspector and her neighbor Tom Parrino. She states that she contacted an attorney who advised her that since the line had been there for decades it's called a prescriptive easement and said she was responsible for the connection from a pole to his service. Joan McDonnell goes on to state that she has a quote from Eversource for \$2654 that she obtained over the summer, that would cover a pole and a connection for Tom's service. Ms. McDonnell states that she was advised by Eversource that it would make more sense for Tom to call himself, that she is willing to write Tom a check for that amount of \$2654 to contribute, but attorney advised she is not responsible for the cost to switch Tom from 100 to 200 amp service, but will do the \$2654.
- Kathleen Muncey asks if they've come to an agreement.
- Richard Serkey, attorney representing Tom Parrino, states that the amount Dr. Parrino thinks he needs will be 2x that amount and Dr. Parrino would like to postpone until the spring as his wife is sick and he'd rather no danger of winter storms interrupting that. Mr. Serkey states they do not yet have an agreement, but they are talking and are very close.

- Dr. Parrino states that last Easter I had to move my wife out and due to other winter storms that happened, we got a generator.
- Kathleen Muncey asks how the construction would be disruptive.
- Dr. Parrino states he's concerned that if we start messing with power lines and then weather may hit and if things don't go well, I'd like to wait until March.
- Kathleen Muncey asks if there is any reason she cannot start construction.
- Dr. Parrino states that if starting construction means removing the line, then yes.
- Freeman Boynton, Jr. states that he would think she could do the demolition and remove the foundation and put first floor walls on but not the second floor or roof without moving the line.
- Dr. Parrino states that someone had suggested there may be another spot the line could go?
- Freeman states he thinks he is talking about when we spoke about going underground, up your driveway.
- Dr. Parrino states that would take longer.
- Freeman states that you could dig a trench and get connections ready and connection would be over a ten minute period.
- Dr. Parrino expresses concerns over weather again and states he knows he needs to accommodate Joan.
- Kathleen Muncey asks about a pole in the corner of the lot.
- Joan McDonnell states that the pole could be on her property, but she didn't think Tom wanted the pole there.
- Dr. Parrino states that if it's practical and safe he's ok with it, but doesn't want it in the middle of the driveway.
- Kathleen Muncey states it's not in the middle, it's in the corner of the lot.
- Joan McDonnell states she feels she's been sensitive as she knows he has concerns over his wife's health and that there has been construction on Fort Hill Ln, but she's put a hold on her life and would like to get things going. Ms. McDonnell states she consulted a tree guy and they feel they can get moving, that they work around trees all the time.
- Kathleen Muncey asks what the bill from the electric company was for.
- Joan McDonnell states that it was for connection for a pole and a line to his house.
- Kathleen Muncey states that would be behind it, that's where we are talking about.
- Joan McDonnell confirms yes, and that it's actually on Tom's property a straight shot. Ms. McDonnell states that the person at Eversource who is the head of right of way dept suggested Tom call and get his own work order, so she canceled my work order out but I kept the bill.
- Dr. Parrino states that his problem with the pole is that he'd lose half of the parking space I have.
- Kathleen Muncey states we are talking about something on her property.
- Dr. Parrino states that his problem with the pole Joan arranged with Eversource is that it put it right in the middle of the driveway and that is unsafe.
- Joan McDonnell states that it wasn't right in the middle of the driveway.
- Kathleen Muncey states it's a matter of 5' and it could be on the corner of your property or hers.
- Joan McDonnell states it could go on either side.
- Kathleen Muncey states that if it's on her property it cannot interfere with your parking, correct?
- Dr. Parrino states the placement that was discussed that'd only be 20' from the house.
- Freeman Boynton, Jr. states that it's a doable option, that she's willing to give you the easement on her property to make it possible for the power company and it seems like you are already there, that we don't need to get involved.

- Kathleen Muncey agrees.
- Dr. Parrino states he's concerned about going into winter with some unknowns going on.
- Kathleen Muncey thanks him and asks if Board has any questions.
- Emmett Sheehan states that he has no question, but a comment which is...
- Kathleen Muncey states that she thinks there isn't a danger of the utility company coming out fast, that her experience is that they don't work fast.
- Dr. Parrino states that he learned that as well and it's not that they don't want to do it, but his experience with last winter with the recurring noreasters.
- Joan McDonnell asks isn't that why he put a generator in.
- Kathleen Muncey asks if there is any discussion. No.
- Freeman Boynton, Jr. makes a motion to close the public hearing.
- Emmett Sheehan seconds. All in favor, 5-0.
- Freeman Boynton, Jr. states that he thinks we can vote on approving the portion of the project that is within our purview and condition it that Scott give them a permit for whichever portion they need depending upon the timing of the electrical service.
- Kathleen Muncey states they have to determine if it's substantially more detrimental to the neighborhood, that she thinks it's a nice project.
- Emmett Sheehan states he thinks it'll improve the lot by removing some buildings.
- Kathleen Muncey states that they are aware of concern from the neighbor, but they cannot solve the private easement right dispute.
- Freeman Boynton, Jr states he thinks the neighbor doesn't have an objection to the project just concern over his electric service.
- Emmett Sheehan states he agrees that it'll work out in the end.
- Borys Gojnycz asks if we need to put the permit stages in there.
- Freeman Boynton, Jr states that he thinks they can work it out with Scott as that is beyond us.
- Philip Thorn states that he thinks we can agree that the project is agreeable to the neighborhood and to the abutters, that it's an improvement to the neighborhood and that the two concerned parties have to agree on the mechanics of how.
- Freeman Boynton, Jr adds that yes, and provide evidence to Scott.
- Kathleen Muncey states that our decision doesn't impact any easement rights whatsoever. All agree.
- Emmett Sheehan makes a motion to approve the project, as submitted.
- Freeman Boynton, Jr. seconds.
- All in favor, 5-0. (Wayne Dennison present, but abstained)

Motion: It was moved, seconded and unanimously voted to close the public hearing for 1 Fort Hill Lane.

Moved by: FB	Seconded by: ES
Number in favor: 5	Number opposed: 0

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

Moved by: ES	Seconded by: FB
Number in favor: 5	Number opposed: 0

BOARD OF APPEALS — MINUTES

Case No: 2018-19

Petitioner: Jonathan Mark of Waterfront Realty, Inc.

Address: 397 Washington Street

Date: December 13, 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, December 13, 2018 at 7:30 p.m. to consider the application of Jonathan Mark of Waterfront Realty Group, Inc. for Special Permits under Article(s) 400, 600 and 900, Section(s) 410.6, 421.3 #7, 421.3 #11, 601.4, 601.9 and 906.2 of the Duxbury Protective Bylaw. The property is located at 397 Washington Street, Parcel No. 119-147-405 of the Duxbury Assessors Map, consisting of 33,977 S.F. in the Residential Compatibility & Neighborhood Light Districts and owned by Ditch Digger LLC. The Applicant proposes a mixed-use of the building – professional office space and accessory apartments – as well as a continued use of an existing free-standing sign with added lighting. Special Permits are required.

Members present: Wayne Dennison, Kathleen Muncey, Borys Gojnycz, Philip Thorn, Emmett Sheehan & Freeman Boynton, Jr.

Members Voting: Wayne Dennison, Kathleen Muncey, Borys Gojnycz, Philip Thorn & Emmett Sheehan

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

- Wayne Dennison reads the public hearing notice into record and reads and cites, some in part, the correspondence received: Memos from the Design Review Board, the Board of Health, the Conservation Commission and the Planning Board, letters in support from abutters Mason, Earle, Weillbrenner, McKenna, Kent Jr., White, Harris & Lewis.
- Mr. Dennison gives a brief synopsis of the order of events of the hearing.
- Jonathan Mark of Waterfront Realty identifies himself and describes that his reasoning for needing the special permit is that his company has outgrown his current office space on St. George Street and that they have already gone to Town meeting to request the new business zoning district, NB Light. Mr. Mark states that he has neighborhood support for the project and he'd like to use it as office space with small apartments, noting that the office when it was Battelle was much larger.
- Mr. Mark describes his project at length stating that the building will be conforming, the garage has been demo'd and will be rebuilt within the footprint, they intend to keep as many original features of the property as possible like windows, that the parking area will be increased to accommodate the building and that the parking will be well below the grade and that the existing shrubbery along with the Linden tree will stay. Mr. Mark states that he's considered site line perspectives and in doing so has agreed to an easement with Island Creek Oysters to bury their line and states he'll do the same with his. He states that there is a landscaping plan that is in-line with the neighborhood and he's had just unhealthy trees removed.
- Jonathan Mark, pointing to paper plans, discuss parts of the Plans
- Mr. Mark points out on the Plans where the lighting will be and states that the intention is to have the sign in the same spot as the stone wall, that he has toned down the white on his logo even to make it more cream and proposes the lighting timing of the sign be the same as it is at The Winsor House.

- Wayne Dennison states that the sign proposal has no dimensions and he needs that and quotes from the bylaw stating as much.
- Jonathan Mark states that the sign is existing and is 7' x 3'.
- Wayne Dennison states that there's a desire to eliminate nonconformity if possible and with the rezoning I'll need more information on it and if it complies under 601.6
- Jonathan Mark and Wayne Dennison discuss the size of the proposed sign and what is allowed under the bylaw
- Emmett Sheehan agrees with Mr. Dennison's thinking, that they need to adhere to the guidelines as much as possible and asks if this is where he'd like the sign.
- Mr. Mark states that he'd actually prefer sign on the street; however, he knows that people in Town would like to see the existing sign used and prefer that.
- Wayne Dennison asks if sign will be lit only during hours of operation.
- Jonathan Mark states he doesn't have typical hours of operation, so could he say it'd be off by 10 at night.
- Phil Thorn states he thinks it'd be safe to say until the end of business hours.
- Jonathan Mark states his hours are always different and would like to go with a set time because of that.
- Borys Gojnycz asks what the plan for tenants is and if anyone is lined up.
- Jonathan Mark responds, stating that he's had a lot of structural challenges making the space and that the plan is for 2 1-bedroom apartments, although no one is lined up yet, but he'd hope for single professionals.
- Wayne Dennison asks if he'd be willing to make one of the apt affordable.
- Jonathan Mark states that it is not financially possible for him at this time as he's putting a lot into getting the building going and will need that income.
- Sarah McCormick states that the lighting for the sign until 11 would be amenable, but they haven't seen the lighting plan and that she thinks the proposal is a wonderful idea and that there isn't much that would be appropriate for this space and she and the DRB fully support his proposal.
- Kathleen Muncey asks if this is under a new zoning district.
- The Board discusses that it is a new zoning district, NB-Light and is pending AGO approval.
- Wayne Dennison states that he isn't likely to approve without compliance with the sign by-law and we need to see the impact of new zone on special permit and consult with Town Counsel on NB-1 Light and see a new proposal with signage that complies and get the DRB the landscape plan they've requested.
- Emmett Sheehan and Sarah McCormick discuss the plan for lighting and Sarah states they'd like to see it.
- Wayne Dennison and Kathleen Muncey discuss the existing public hearing notice and that it lacks cited sections and ponders if it should be re-noticed.
- Jonathan Mark states that he was under the impression the sign falls under existing.
- Wayne Dennison states that he thinks they need Town Counsel's opinion on Light district and sign compliance with the bylaw.
- The Board and the Applicant agree to continue the hearing until January 24, 2019.
- Wayne Dennison makes a motion to continue the hearing until January 24, 2019. All in favor, 5-0.

Motion: It was unanimously voted to continue the public hearing for 397 Washington Street.

Moved by: WD
Number in favor: 5

Seconded by: ES
Number opposed: 0

BOARD OF APPEALS — MINUTES

ADMINISTRATIVE

Date: December 13, 2018

The Design Review Board requested the Zoning Board of Appeals review a Design Guidelines Book their Board drafted.

Members present: Wayne Dennison, Kathleen Muncey, Borys Gojnycz, Philip Thorn & Emmett Sheehan

Members Voting: n/a

Other persons present: Angela Ball, Administrative Assistant

- Sarah McCormick, Sue Bourget and other members of the Design Review Board describe to the ZBA their goal with the Design Guidelines Book and show the Board a video presentation.
- Sarah McCormick et al describe that the book is intended to be suggestions, suggestions for those interested in completing their renovations with design principles in line with the Board's.
- Stephen Williams points out that they looked to other town's guideline books like Nantucket and Hingham.
- Emmett Sheehan points out that in those communities it is sometimes mandatory whereas here it is not.
- The DRB states their goal is to help people with suggestions to improve their property values
- Wayne Dennison states that he sees there is a tremendous amount of work put into this, that the DRB opinion is always valued but he has a few concerns, which are to ensure that any photos in the book are not of existing homes, that he understands the desire for quality but they have to be careful as that can often translate into money and that is not something they should endorse and to consider that style cannot be regulated, that it's often a notion of taste.
- Wayne Dennison asks the DRB to consider that they do hold a lot of weight under the bylaw 906.2 which asks them to give opinions on special permits.
- Sarah, Stephen et al state that they are hoping to convey design principles that are in-line with the history of Duxbury, not things that are subjective like taste, but things that are applicable to all like symmetry and balance.
- Wayne Dennison suggests they consider that the bylaw is the ticket to being able to weigh in on projects and to realize they may get pushback moving forward with this book as you cannot regulate things like paint color etc. and he'd like to help them avoid any negativity surrounding the book.
- Phil Thorn states that he has read the book and sees a lot of this as suggestions, not demands and it could be tremendously helpful to someone looking for guidance.
- The Board and the Design Review Board agree that they will look proofread the book a bit further in order to make it more appealing to the masses.
- Wayne Dennison motions to close the public hearing. All in favor. 4-0

Motion: It was unanimously voted to close the public hearing.

Moved by: WD

Seconded by: ES

Number in favor: 5

Number opposed: 0