



# TOWN OF DUXBURY



## BOARD OF APPEALS

### DUXBURY BOARD OF APPEALS MEETING MINUTES

TOWN CLERK

OCT 15 2020

DUXBURY, MA

February 14, 2019 @ 7:30 p.m.

**ATTENDANCE:** Judith Barrett, Kathleen Muncey, Borys Gojncyz, Emmett Sheehan, Freeman Boynton, Jr. & Wayne Dennison remote participation via telephone,

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

- **ZBA Case #2018-20 Duddy, 14 Stetson Place, Special Permit (CONT'D):** *The Board voted to continue the public hearing until February, 28, 2019. All in favor (5-0).*
- **ZBA Case #2018-19, J Mark Waterfront, 397 Washington, Special Permit (CONT'D):** *The Board voted to approve the special permit, subject to conditions. All in favor (5-0).*
- **ZBA Case #2018-21 William Raveis, c/o Archer Signs, 53 Railroad Ave, Special Permit:** *The Board voted to continue the public hearing until March 14, 2019. All in favor (5-0).*

### ADMINISTRATIVE

- **Minogue, 12 Back River Way:** *The Board determined that the proposal deemed further review by the Planning Director and/or Board.*
- *Kathleen Muncey moved to approve the meeting minutes from December 13, 2018. Emmett Sheehan seconded. All in favor, 4-0.*
- *Freeman Boynton, Jr. moved to approve the meeting minutes from December 12, 2018. Borys Gojncyz seconded. All in favor, 4-0.*
- *Emmett Sheehan moved to approve the meeting minutes from November 8, 2018. Borys Gojncyz seconded. All in favor, 4-0.*
- *Emmett Sheehan moved to approve the meeting minutes from October 25, 2018. Freeman Boynton, Jr. seconded. All in favor, 4-0.*

*Kathleen Muncey moved to adjourn the meeting. Emmett Sheehan seconded. All in favor.*

## **BOARD OF APPEALS — MINUTES**

**Case No: 2018-20**

**Petitioner: Brian Duddy,**

**Doug Friesen/Duxborough Designs, Agent**

**Address: 14 Stetson Place**

**Date: February 14, 2019 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, January 10, 2019~~ at 7:30 p.m. to consider the application of Brian Duddy for a Special Permit under Article(s) 400 and 900, Section(s) 410.2 #4, 410.4 and 906.2 of the Duxbury Protective Bylaw. The property is located at 14 Stetson Place, Parcel No. 119-079-226 of the Duxbury Assessors Map, consisting of 0.25 Acres in the Residential Compatibility District and owned by Brian P. & Kathleen M. Duddy. The Applicant proposes to construct additions to a pre-existing, non-conforming structure, plans for which increase the coverage beyond the allowable amount. A Special Permit is required. The application may be viewed in the Municipal Services Department between the hours of 8:30 a.m. and 1:30 p.m., or by appointment. 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.

**Members present:** Judith Barrett, Kathleen Muncey, Emmett Sheehan, Borys Gojncyz & Wayne Dennison (Wayne remotely via telephone)

**Members Voting:** Judith Barrett, Kathleen Muncey, Emmett Sheehan, Borys Gojncyz & Wayne Dennison (Wayne remotely via telephone)

**Other persons present at the hearing:** Scott Lambiase, Director of Municipal Services & Angela Ball, Administrative Assistant

- Judith Barrett states that case on the agenda for 14 Stetson Place has been continued from this evening until February 28, 2019 and explains that the Board will hear the matter then.

## BOARD OF APPEALS — MINUTES

**Case No: 2018-19**

**Petitioner: Jonathan Mark of Waterfront Realty, Inc.**

**Address: 397 Washington Street**

**Date: February 14, 2019**

The Board of Appeals will hold a public hearing on February 14, 2019. The hearing was originally held on Thursday, December 13, 2018 and continued until January 24, 2019 and is being re-noticed to be held on Thursday, February 14, 2019. The public hearing will be in the Mural Room at Town Hall, 878 Tremont Street 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, 421A.3 #2, 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 (RC) & Neighborhood Light (NB-L) 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:** Judith Barrett, Kathleen Muncey, Borys Gojnycz, Emmett Sheehan, Freeman Boynton, Jr. & *Wayne Dennison remotely via telephone*

**Members Voting:** Judith Barrett, Kathleen Muncey, Borys Gojnycz, Emmett Sheehan, Freeman Boynton, Jr. & *Wayne Dennison remotely via telephone*

**Other persons present at the hearing:** Scott Lambiase, Director of Municipal Services & Angela Ball, Administrative Assistant

- Judith Barrett states the case is continued and that all original members are present, including Wayne who is remote. Ms. Barrett invites applicant to present.
- Jonathan Mark of Waterfront Realty introduces himself and explains that he'd like to touch on 3 items – 1. The zoning change has since been approved by the state, 2. The hearing was re-noticed to include the proper bylaw designation and 3. He now has the sign specifics.
- J. Mark goes on to states that he is going on the pre-existing sign with wall and he got RB approval, that it's almost identical to Battelle, and he tells the colors and states that the light is a single LED from dusk to about 10pm.
- Emmett Sheehan states that it's really the hours of operation.
- Kathleen Muncey asks when the office closes.
- J Mark explains that they don't have set hours.
- Judith Barrett asks why the need for illumination.
- J Mark states that it's so people know he is there and that he knows he could put a better situated sign perpendicular to Washington but he thought about it and this will fit and look better
- Kathleen Muncey wonders what time signs in the Snug Harbor area go off
- J Mark states that he doesn't know but sign is near the business district and only commercial properties are affected.
- Emmett Sheehan states that it's not about the residences being affected for him, it's more about the regulation stating it should be during hours of operation and he thinks that 9pm seems more than sufficient.

- Wayne Dennison states that it's a real estate office and people work until 5, maybe 7pm and I don't see a need for a light at all really, a light after 7 for a real estate office isn't necessary.
- Judith Barrett asks how many apartments.
- J Mark states there are 2-1 bedroom apartments.
- Borys Gojnycz states that he likes the wall sign and doesn't necessarily mind the light, but Wayne makes a good point about the timing
- Kathleen Muncey asks if there is any signage at the house
- J Mark states No.
- Judith Barrett states that she thinks they need to stick with the Bylaw
- J Mark states then they'd be ok with 7pm.
- The Board – Kathleen, Borys, Wayne and Judi all concur.
- Judith Barrett asks if there is anyone there to speak about the application.
- Sara Wilson of 120 Bay Road states she has two concerns/suggestions – she thinks that the flat top roof isn't visually appealing and suggests that the applicant work with the Design Review Board; she also states that the second matter is also aesthetic in that the lot has been cleared alto and she'd like to see a referral to the director of lands and natural resources to have trees on the border.
- Pamela Smith of 242 St. George Street states that there was an agreement at Town Meeting and we signed off on it, that Jonathan has met the historic requirements.
- J Mark states that this house had an existing garage with a flat roof and that we planned the building in exact footprint –and it's not done yet. Mr. Mark goes on to state that he has a landscape plan he's following, again it's all in progress, and that a lot of the trees were dead so he was advised to take them out and that he did work hard to keep the "Linden" tree and had it fixed professionally.
- Alexander Cee of 185 St. George Street states that he'd like to give kudos for all the work so far but he'd like to address the lighting issue and that he thinks it's ironic that a real estate company in a historic setting in Duxbury is trying for lights.
- Judith Barrett asks who reviews the landscape plan
- Scott Lambiase states that if the ZBA wanted it reviewed we could, but typically lands and natural resources doesn't get involved for these small sites. Scott states that Jonathan did work hard to save the old tree.
- Pamela Smith asks if the outdoor lighting be on a timer, the flood light one.
- J Mark states that he doesn't have floodlights on the building and there are posts on either side of the parking lot and over the doors, not against any residences.
- Judith Barrett asks if there are any other questions. None.
- Emmett Sheehan makes a motion to close the public hearing for 397 Washington St. Judith Barrett seconds.
- Kathleen Muncey states that lighting from dusk until 7pm is ok with her
- Wayne Dennison states that he agrees with 7pm and thinks that the lack of vegetation was shocking to him as he drove by and is concerned about the project.
- Kathleen Muncey states that it sounded like planting won't happen until the spring. Jonathan Mark concurs.
- Wayne Dennison reminds J Mark the public hearing is closed, discussion is for Board.
- Kathleen Muncey states she is not surprised by the construction on the site, it seems typical and that the plantings are proposed
- Judith Barrett suggests a condition if it'd make people more comfortable.
- Wayne Dennison states he defers to Emmett on landscape part but would be ok with lighting off at 7pm.
- Emmet Sheehan makes a motion to grant the special permit for #2018-19 at 397 Washington Street, provided that 1. The lighting is off at 7pm and 2. A Landscape Plan is submitted with 2 street trees
- Wayne Dennison seconds the motion.

- Scott Lambiase states that you could put a condition to come back with a plan for 2 street trees and I will talk with land and natural resources in the meantime and see if it's appropriate.
- Judith Barrett states that we could have it be subject to compliance with the proposed landscape plan and the addition of 2 street trees to be approved by the building inspector.
- Scott Lambiase concurs.
- Borys Gojnyecz asks if the sign is the only thing lit. Yes
- There was a roll call vote, which was unanimous, 5-0.
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**Motion: It was moved, seconded and unanimously voted to close the public hearing for 397 Washington Street.**

Moved by: ES  
Number in favor: 5

Seconded by: JB  
Number opposed: 0

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

Moved by: ES  
Number in favor: 5

Seconded by: WD  
Number opposed: 0

## BOARD OF APPEALS — MINUTES

**Case No: 2018-21**

**Petitioner: Archer Signs**

**Address: 53 Railroad Avenue**

**Date: February 14, 2019**

The Board of Appeals will hold a public hearing in the Mural Room at Town Hall, 878 Tremont Street, on Thursday, February 14, 2019 at 7:30 p.m. to consider the application of William Raveis Real Estate c/o Archer Signs for a Special Permit under Article(s) 400 and 900, Section(s) 421.1 #2, 424, 425.1, 601.9 and 906.2 of the Duxbury Protective Bylaw. The property is located at 53 Railroad Avenue, Parcel No. 106-741-105 of the Duxbury Assessors Map, consisting of 0.53 Acres in the Neighborhood Business District (NB-1) and owned by BLCR Holdings LLC c/o William Raveis Real Estate. The Applicant proposes to add external lighting to both a wall and a freestanding sign. A Special Permit is required.

**Members present:** Judith Barrett, Kathleen Muncey, Borys Gojnyecz, Emmett Sheehan, Freeman Boynton, Jr. & *Wayne Dennison remotely via telephone*

**Members Voting:** Judith Barrett, CPT, Kathleen Muncey, Borys Gojnyecz, Freeman Boynton, Jr. & *Wayne Dennison remotely via telephone*

**Other persons present at the hearing:** Scott Lambiase, Director of Municipal Services & Angela Ball, Administrative Assistant

- Emmett Sheehan reads the public hearing notice into record.
- Judith Barrett cites and/or reads, some in part, the correspondence received – the BOH Memo, the Conservation Commission Memo, the Planning Board Memo, the Design Review Board memo, and an email from Susan Peters.
- Judith Barrett asks who is there to speak about this proposal.
- Steven Schwede of Fast Signs in Needham, MA explains he is there on behalf of the Applicant's Agent Archer Signs and then states that he does agree with concerns regarding the sign and thinks that should be addressed.
- Emmett Sheehan asks how this came to be here.
- Scott Lambiase states that he had advised that they could replace the sign and didn't see it until it was erected and it was his mistake not considering the massing
- Wayne Dennison states that he thinks it is way bigger than the old one and asks why not an enforcement action. Mr. Dennison states that if you put up a new sign that's bigger than you need a special permit, that the lighting is a separate issue but new sign requires its own special permit.
- Freeman Boynton, Jr. states it appears to be 33sf and it was under 25sf.
- Borys Gojnyecz states it's a safety issue right now, he could not see around it.
- Wayne Dennison states he feels it's ridiculous.
- Scott Lambiase states that he recommends continuing the hearing and he'll work with the sign company to fix it.
- Emmett Sheehan and Freeman Boynton, Jr. agree.
- Judith Barrett suggests taking a few comments while they are here.

- Pam Smith of 243 St George Street states that the sign was installed on 12/26/19 and she drives a mini cooper and it's a problem even from the parking lot of Raveis it's a safety problem. She goes on to state that she'd like the lighting of this proposal considered as she cannot sleep with what's there which is a big pink light on a pole in the parking lot that is on at all hours.
- Marjorie Mayo of 291 St. George Street states that her house is lit up all the time, that she's been there for 40 years and I feel disrespected that it continues like this.
- Judith Barrett states that she thinks they should continue the hearing.
- Wayne Dennison states that before we continue, can Scott consider an enforcement order to come before the next hearing.
- The Board concurs and then discusses dates for a continuance.
- Kathleen Muncey makes a motion to continue the public hearing until March 14, 2019. Borys Gojnycz seconds. All in favor.
- Borys tells the audience that they could write down specific concerns as they take abutters concerns very seriously. Kathy and Judi concur.
- Judith Barrett states that she thinks they need to enforce.
- Freeman Boynton, Jr. points out that they did come in already and talk to Scott and tried to do their due diligence, perhaps we don't ask them to take it down right away
- Scott Lambiase states that he'd work with them to modify it like the other sign was or to take it down for safety concern
- Wayne Dennison states they need to get a special permit for this
- Judi thinks this is a public safety issue, so we need to defer to Scott on this.
- The Board agrees.

**Motion: It was moved, seconded and unanimously voted to continue the public hearing for 53 Railroad Avenue.**

Moved by: KM  
Number in favor: 5

Seconded by: BG  
Number opposed: 0

## BOARD OF APPEALS — MINUTES

**Applicant: Minogue**  
**c/o South Shore Homeworks, Nate Poploski**  
**Property Address: 12 Back River Way**  
**Case No: 2018-23**  
**Date: February 14, 2019**

**Members present:** Kathleen Muncey, Borys Gojnycz, Emmett Sheehan, Freeman Boynton, Jr.  
*(Judi Barrett departed after public hearings as did Wayne Dennison)*

**Members Voting:** Kathleen Muncey, Borys Gojnycz, Emmett Sheehan, Freeman Boynton, Jr.

**Other persons present at the hearing:** Scott Lambiase, Director of Municipal Services  
& Angela Ball, Administrative Assistant

### ADMINISTRATIVE:

**Minogue, 12 Back River Way:** Applicant has requested building permits to construct an addition of a single stall garage to the existing 2 stall garage. The Board of Appeals must determine whether an Amendment to the Special Permit under which Back River Way was constructed is necessitated.

- Kathleen Muncey explains the administrative matter before them.
- Nate Popoloski explains he is there to request the garage.
- Freeman Boynton, Jr. states he thinks he's seen a bit about this, that it is about an easement and wonders if it requires a special permit.
- Nate Popoloski states that yes, it is a drainage easement.
- Scott Lambiase states that what it requires of this board is for you to determine if the addition triggers a need for a new special permit under which the dev was built and if you say no it doesn't, then the next step will be for them to show extinguishment of the easement, but the bylaw here asks that you look at it – the HOA and the DRB looked at it, no issues there and we looked at the special permit and since it wasn't creating new bedrooms, etc. there was no issue.
- The Board asks if Conservation or Planning have looked at this
- Borys quotes why the easement was created and states he thinks it warrants a closer look
- Scott Lambiase states that we don't typically send the admin case
- Freeman Boynton Jr. states does drainage accommodate any on St. George Street
- Scott Lambiase states we can run it by
- Sara Wilson states that early clusters went through the Planning Board
- Kathleen Muncey states we need input and there's got to be some title issues here
- Dan Orwig states I was asked by the homeowner to look at that issue. I can go over that tonight or with the Planning Board
- Kathleen Muncey states start with the plan limiting the easement to the garage
- Dan Orwig states there are two easements were not meant to be just for drainage, it's for natural flow of drainage in Back River, there's no catch basins and he had A, E and H- were not meant to exclude buildings but couldn't interrupt flow of drainage
- Dan Orwig continues to present subdivision plan to the Board and explains it wasn't meant
- Emmett Sheehan states how do we know that
- Kathleen Muncey states description of easement E; is there anything on the record

- Borys Gojnycz states we go by percentage of impact and I see this as being a whole thing
- Freeman Boynton Jr. states we'd want our consultant to weigh in, or PB
- Kathleen Muncey discusses the easement particulars
- Scott Lambiase states have this reviewed by a consultant and run it by the Planning Board consultant at the Applicants expense.
- Scott Lambiase states to come back here administratively

**Motion: It was unanimously voted to close the Public Hearing.**

**Moved by: KM**

**Seconded by: ES**

**Number in favor: 5**

**Number opposed: 0**