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TOWN OF DUXBURY



BOARD OF APPEALS

DUXBURY BOARD OF APPEALS

MEETING MINUTES

January 11, 2018 @ 7:30 p.m.

ATTENDANCE: Wayne Dennison, Freeman Boynton, Jr., Emmett Sheehan, Dimitri Theodossiou & Borys Gojncyz

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

- **2017-13, Barry, 275 Marshall St.:** *The Chairman and the Board agreed to an extension of the hearing until January 25, 2018.*
- **2017-14, Habel, 106A King Phillips Path:** *The Board moved to grant the special permit. All in favor (4-0).*
- **2017-10, Baldwin, 0 North St. (CONT'D):** *The Board moved to grant the withdrawal request without prejudice. All in favor (5-0).*

The Chairman and the Board agreed to an extension of the hearing until January 25, 2018.

Emmett Sheehan makes a motion to close the public hearing for 106A King Phillips Path. All in favor (4-0).

Dimitri Theodossiou makes a motion to grant the special permit request for 106A King Phillips Path. Emmett Sheehan seconds. All in favor (4-0).

The Chairman and the Board unanimously approved a withdrawal without prejudice of the special permit application for 0 North Street, ZBA Case #2017-10 (5-0).

The Chairman and the Board unanimously approved the release of the remaining funds in the bond for Duxbury Woods (5-0).

Freeman Boynton, Jr. makes a motion to adjourn the meeting. Wayne Dennison seconds. All in favor (5-0).

BOARD OF APPEALS — MINUTES

Applicant: Mark Barry

Property Address: 275 Marshall Street

Case No: 2017-13

Date: January 11, 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, January 11, 2018 at 7:30 p.m. to consider the application of Mark Barry for an Appeal under Article(s) 300, 400 and 900, Section(s) 302, 410.1, 410.4, 906.1 and 911 of the Duxbury Protective Bylaw. The property is located at 275 Marshall Street, Parcel No. 124-096-142 of the Duxbury Assessors Map, consisting of 7,841 SF in the Residential Compatibility District and owned by Mark P. & Michele Nejaime-Barry. The Applicant contends that the Town's By-laws have been incorrectly interpreted and applied to his property and disputes a zoning violation notice and citation.

Members present: Wayne Dennison, Dimitri Theodossiou, Emmett Sheehan & Borys Gojncyz

Members Voting: Wayne Dennison, Dimitri Theodossiou, Emmett Sheehan & Borys Gojncyz

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

- Wayne Dennison calls the meeting to order. Mr. Dennison states that the first case on the agenda is #2017-13.
- Emmett Sheehan states that this one is to be continued.
- Angela Ball states that the appellant is requesting a continuance and is not in attendance and that he has requested a continuance to be February 22nd, not in March, but perhaps in April.
- Scott Lambiase states that this is an appeal of an enforcement order and that they will have to start accumulating fines on this.
- Wayne Dennison asks Angela Ball what is on the 22nd.
- Angela Ball states that nothing is on so far, but wanted to take a roll call since that is the vacation week that month.
- Wayne Dennison states that it'll be a tough week then.
- Angela Ball states that he [referring to the appellant] said he wasn't available on the 8th of February and that March wasn't good because he was travelling.
- Wayne Dennison states that he is appealing an enforcement order?
- Angela Ball concurs, then states that his application is dated November 2nd and the 100 day mark for the decision is February 10th, and he was on the agenda on the 14th of December and requested a continuance until tonight and now he is asking for another.
- Emmett Sheehan states that technically we don't have to continue it until May or April.
- Wayne Dennison states that so this is the second continuance he's asked for relative to an enforcement order.
- Angela Ball states that is correct and I let him know that it was up to your discretion and everyone's schedule but I couldn't give him a date.
- Wayne Dennison asks Scott Lambiase the background.
- Scott Lambiase states that the reason he wanted it to be heard tonight as opposed to just picking another date is so that the Board could decide on a date for the case to be heard and decided. Mr. Lambiase states that this has been going on long enough, the neighbor has a legitimate complaint, and this is what the building department considers a shed or a structure on the property line and it is a clear violation and we want it moved and I can't just let it keep going on.
- Emmett Sheehan states that this is part of the big project there?

- Scott Lambiase states that this isn't part of the big project, this was well after.
- Emmett Sheehan states that the project only ended last summer, but the shed was slid in after. Mr. Sheehan states that he thinks they should give him a date and get it going.
- Angela Ball states that the first date in April is the 12th.
- Emmett Sheehan states that no, we want the date whenever we meet next.
- Angela Ball states that the next meeting is on the 25th of this month and that would be the only thing on the agenda.
- Wayne Dennison states that is good and he can have a continuance until the 25th but you should tell him that we intend to decide it irrespective of whether he shows up on the 25th.

BOARD OF APPEALS — MINUTES

Applicant: Christopher Habel

Property Address: 106A King Phillips Path

Case No: 2017-14

Date: January 11, 2018

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, Dimitri Theodossiou, Emmett Sheehan & Borys Gojncyz

Members Voting: Wayne Dennison, Dimitri Theodossiou, Emmett Sheehan & Borys Gojncyz

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

- Wayne Dennison reads the public hearing notice into record.
- Wayne Dennison cites & reads, some in part, the correspondence received - the application, plans, a letter from Dennis McLeod in full support of the proposal & a letter from the applicant. Mr. Dennison goes on to cite additional correspondence from various Town Boards - a Memo from the Board of Health dated 12.6.17 stating that it has approved an application for Disposal System Construction Permits and the BOH has no other issues.
- Chris Habel states that it has been completed as well.
- Mr. Dennison goes on to cite a Memo from the Planning Board stating that at its meeting of January 10, 2018 the Planning Board reviewed and discussed the special permit and voted unanimously to recommend approval.
- Wayne Dennison asks Angela Ball if there is anything else. No.
- Mr. Dennison invites the applicant, Chris Habel, to present his case.
- Chris Habel of 106 King Phillips Path states that his home is located on King Phillips Path, back off of Harvey's Lane in a very secluded area, and they have about 3 acres. Mr. Habel states that although they have multiple abutters there really is only one that can view our home, Mr. McLeod, who wrote the letter and he has reviewed our plans and is very excited to see our house which is in great disrepair come back to life and to add value to his property and bring that whole area back to where it should be. Mr. Habel states that what they are looking to do on the existing property is to raise the peak of the roof about 10' in order to have room on the second floor and to add a bathroom. Mr. Habel asks the Board if they have any questions for him.
- Wayne Dennison asks if the Board has any questions.
- Emmett Sheehan states that he has reviewed it and feels it is pretty without adding any nonconformity.
- Mr. Dennison asks if there was anything from the Design Review Board. No.
- Chris Habel states that it is a cape style and they stayed with the traditional style, like the dormers, and the footprint doesn't change at all.
- Wayne Dennison asks if there is anyone present that would like to speak. No.
- Wayne Dennison asks if the Board has any comments.
- Emmett Sheehan makes a motion to close the public hearing. All in favor (4-0).

- Dimitri Theodossiou makes a motion to approve the special permit. Emmett Sheehan seconds. All in favor (4-0).

Motion: It was moved and unanimously voted to close the public hearing for 106A King Phillips Path.

Moved by: DT
Number in favor: 4

Seconded by:
Number opposed: 0

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

Moved by: DT
Number in favor: 4

Seconded by: ES
Number opposed: 0

BOARD OF APPEALS — MINUTES

Applicant: John Baldwin

Property Address: 0 North Street

Case No: 2017-10

Date: January 11, 2018

(Continued from November 9, 2017)

The Board of Appeals will hold a public hearing in the Mural Room at Town Hall, 878 Tremont Street, on ~~Thursday, November 9, 2017~~ at 7:30 p.m. to consider the application of John Baldwin for a Special Permit under Article(s) 400 and 900, Section(s) 401.5, 401.6, 404.8, 404.9, 410.1, 410.4, and 906.2 of the Duxbury Protective Bylaw. The property is located at 0 North Street, Parcel No. 009-010-001 of the Duxbury Assessors Map, consisting of 2.27 acres in the Residential Compatibility and Wetlands Protection Overlay Districts and owned by Susan J. Curtis, TT/Zero North Street Nominee Trust. The applicant proposes to construct a new single family dwelling in Wetlands Protection District. A Special Permit is required.

Members present: Wayne Dennison, Freeman Boynton, Jr., Dimitri Theodossiou, Emmett Sheehan & Borys Gojncyz

Members Voting: Wayne Dennison, Freeman Boynton, Jr., Dimitri Theodossiou, Emmett Sheehan & Borys Gojncyz

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

- Wayne Dennison states that for this case the applicant has asked to withdraw his application and reads from the Chapter 40A rules surrounding withdrawals. Mr. Dennison states that it is up to us whether we want to permit the withdrawal of 0 North Street and the secondary question is if we want to bar making the same claim for two years.
- Mr. Dennison states he has no issue with permitting the withdrawal.
- Emmett Sheehan, Dimitri Theodossiou & Borys Gojncyz concur.
- Wayne Dennison states that they had one hearing, some discussion, and it's not as if they pursued this forever and then withdrew it, so I see no reason to make it with prejudice.
- Emmett Sheehan states he doesn't either.
- Freeman Boynton, Jr. states he agrees that he didn't get very far with the case.
- Wayne Dennison states that the case is withdrawn without prejudice.
- Freeman Boynton, Jr. asks if they have to vote on it.
- Wayne Dennison states that it is administrative and all said yes. All concur, (5-0).

BOARD OF APPEALS — MINUTES

Property Address: Duxbury Woods

Date: January 11, 2018

ADMINISTRATIVE MATTER

Members present: Wayne Dennison, Freeman Boynton, Jr., Dimitri Theodossiou, Emmett Sheehan & Borys Gojncyz

Members Voting: Wayne Dennison, Freeman Boynton, Jr., Dimitri Theodossiou, Emmett Sheehan & Borys Gojncyz

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

- Wayne Dennison invites applicant up to speak.
- Walter Savard of Northland Residential states he is there to seek the remaining bond on the Duxbury Woods project. He states that Horsley Witten did a report on the as built and there were two items that had questions. Mr. Savard states that he conversations today with Joe at Horsley Witten and with Scott Lambiase (via email) and Joe stated that he was satisfied and that all the work had taken place.
- Wayne Dennison asks what the bond amount is.
- Walter Savard answers, \$134,387.00.
- Emmett Sheehan asks what the bond was covering.
- Scott Lambiase answers, stating the infrastructure, roadway, drainage, pavement and stuff like that. Mr. Lambiase states that it was an outstanding issue when the manhole covers had been paved over and he wasn't going to recommend to the Board that they release it until it had been fixed, but it has been fixed.
- Emmett Sheehan asks if the irrigation system is on a well or Town water.
- Walter Savard states that the last he knew it was Town water.
- Freeman Boynton, Jr. asks if they've satisfied all the requirements for road construction.
- Scott Lambiase states they have, that they had their engineer out there today. Mr. Lambiase states that the items that the bond covers have been satisfied, but he knows there are representatives from the Homeowner's association here so he doesn't know if there is anything they want to speak to.
- Wayne Dennison states that he received a letter from the homeowner's association and then today he got an email stating that they want to withdraw the letter, so his suggestion is that they leave it part of the public record but not talk about it.
- Scott Lambiase states that he recommends as does Horsley Witten, to release the bond.
- Wayne Dennison asks if anyone there that wants to talk about it.
- Andy DeCusati of the Duxbury Homeowner's Association states that he has pulled the letter.
- Freeman Boynton, Jr. states that basically the issues that were covered in the letter weren't covered by the bond.
- Andy DeCusati states that they weren't covered by the bond and there has also been movement in the last week on the proposal that makes us much more comfortable.
- Wayne Dennison states that this is another administrative matter and asks if anyone has any objection to releasing the bond. All in favor, unanimous (5-0).

Motion: It was moved and unanimously voted to adjourn the meeting of January 11, 2018.

Moved by: FB

Seconded by: WD

Number in favor: 5

Number opposed: 0