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TOWN OF DUXBURY

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### BOARD OF APPEALS

### DUXBURY BOARD OF APPEALS MEETING MINUTES

June 11, 2020 @ 4:00 p.m.

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

**Other persons present at the hearing:** James Wasielewski, Director of Municipal Services & Lauren Haché, Administrative Assistant

CALL TO ORDER: Judith Barrett, Chair Pro Tem, called the meeting to order. Judith Barrett reads Governor Baker's preamble:  
Pursuant to Governor Baker's March 12, 2020, Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020, Order imposing strict limitation on the number of people that may gather in one place, the Town of Duxbury's Board and/or Committee meetings will be conducted via remote participation to the greatest extent possible with members. For this meeting, members of the public who wish to watch the meeting may do so by viewing the Duxbury Government Access Channels – Verizon 39 or Comcast 15. Viewers can visit [www.pactv.org/duxbury](http://www.pactv.org/duxbury) for information about Duxbury programming. To watch a meeting live on PACTV's streaming channel, PACTV Prime, visit [www.pactv.org/live](http://www.pactv.org/live). To watch replays of a meeting, visit [www.pactv.org/duxbury](http://www.pactv.org/duxbury) or to watch online visit PACTV's Video on Demand at [www.pactv.org/ondemand](http://www.pactv.org/ondemand). NO IN-PERSON ATTENDANCE OF MEMBERS OF THE PUBLIC WILL BE PERMITTED. Every effort will be made to ensure that the public can adequately access the proceedings to the best of our technical abilities; and despite our best efforts due to lack of technical infrastructure, this meeting will be available on PACTV to view a video recording and a transcript or other comprehensive record of proceedings as soon as possible after the meeting. Judi Barrett as the Chair Pro Tem reads the Agenda for the evening and explains each case. Judi Barrett also states that the Board will not accept any motions today to close a hearing due to a large amount of new information received in the last forty-eight hours; The Board will be continuing all the cases we hear this evening. The first case on

the Agenda, case 2019-17, the comprehensive permit on Lincoln Street, will be continued, we also have case 2020-01 Vertex Tower Assets LLC, 2020-02 Brownbuilt Construction and case 2020-03 Larkin home 10 Pine Point Place as well as a few administrative cases. As we hear the cases, please mute until called upon or when the Public is asked for comment.

**ZBA Case #2019-17, WB Builders, 1&25 Lincoln Street – CONT'D:** *The Board voted to continue the public hearing to June 25, 2020 at 6:00pm.*

**ZBA Case #2020-01, Vertex Assets LLC, 421 Elm St.:** *The Board voted to continue the public hearing to June 25, 2020 at 6:00pm.*

**ZBA Case #2020-02, Brownbuilt Construction, 116 Tremont St.:** *The Board voted to continue the public hearing to June 25, 2020 at 6:00pm.*

**ZBA Case #2020-03, Larkin, 10 Pine Point Place:** *The Board voted to continue the public hearing to June 25, 2020 at 6:00pm.*

**Administrative:**

**A.Transfer of special permit #90-6, 1508 Tremont St.Unit B:** *The Board voted to approve the Special Permit Transfer.*

**B.Review the conditions of special permit #2019-01 Duxbury Animal Hospital:** *The Board voted to approve the conditions of the Special Permit.*

**C.Transfer of special permit #83-12 & 88-3, 1474 Tremont Street:** *The Board voted to approve the Special Permit Transfer*

*Kathleen Mumcey voted to adjourn the meeting. Wayne Dennison seconds. All in favor (5-0).*

## BOARD OF APPEALS — MINUTES

**Case No: 2020-01**

**Petitioner: Vertex Assets LLC**

**Francis Parisi (Agent)**

**Address: 421 Elm Street**

**Date: June 11, 2020 Time: 4:00 p.m.**

**Members present:** Judith Barrett, Kathleen Muncey, Freeman Boynton, Jr., Borys Gojnycz & Philip Thorn

**Members Voting:** Judith Barrett, Kathleen Muncey, Borys Gojnycz, Freeman Biynton Jr. & Philip Thorn

**Other persons present at the hearing:** James Wasielewski, Director of Municipal Services & Lauren Haché, Administrative Assistant

The first case is case 2020-01 Vertex Tower Assets LLC located at 421 Elm Street. Judi Barrett briefly explains what is in the packet. There is an application, a copy of the site plan filed with the planning board copy of the 2010 decision on the same site, maps, plans, Engineers affidavit, a map of the coverage, a response from the Board of Health dated 3/4/20 stating they have no comments or concerns, a memo from Conservation Committee dated 5/20/20 stating there are no wetland issues, a letter from Amory Engineers, a memo from the Design Review Board in approval, a memo from the Planning Board dated 6/9/20 in favor and an email from Pat Brennan from Amory Engineers to the Planning Board. At this time I would like to open it up to the Applicant to address the Board.

- Francis Parisi introduces himself as the Agent for the Applicant, Vertex Assets LLC and asks to share his screen to show the Board.
- Lauren Hache ZBA Admin states yes, you can share your screen
- Judi Barrett tells Fran Parisi to look at the bottom of the screen for the green box “share screen”
- Fran Parisi successfully shares his screen. He mentions that in 2011 the Zoning Board of Appeals approved the special permit for a cellular tower at this location, but that it never came to fruition. The site plans are similar with the exception of an extra twenty feet on the height.
- Fran explains that Vertex is not a telecommunications carrier, that they build infrastructure. They are very active on the south shore as well as all over Massachusetts and New Hampshire. Mr Parisi states that in with the application, there is a very detailed narrative that shows how Vertex complies with the Bylaw, with exception of the height variance. There is also a letter from the structural Engineer and in March we did conduct a balloon test.
- Mr. Parisi continues his presentation explaining that there is a need for cell service and that Vertex Assets is looking to cover another portion, as opposed to the new tower approved on Mayflower St. We believe we have found the best site

for the tower. Mr. Parisi shows on the screen a map showing the gap in coverage close to route 3. We believe we can supplement the gap in coverage on route 3.

- The site will be a fenced in compound set way back on a 40-foot by 40-foot site with the tower inside. We proposed a 6-foot stockade fence, but the Planning Board requires the fence be 8 feet and we have agreed with that plan. The monopole facility has a sleek design with all of the cabling internally. This is a low power facility, designed to comply with FCC regulations and has a .2% emission. In March we conducted the balloon test, which Mr. Parisi shows on the screen with a map. Behind the site are un-buildable conservation wetlands. Mr. Parisi shows the balloon test photos, stating we went a little bit higher than 120-feet. As you can see from the photos, the vegetation is thick throughout the year, which creates a nice land buffer.
- The photo of the balloon test taken from the route 3 overpass the balloon is visible. Mr. Parisi again mentions the 20 page memorandum showing all of the areas that the tower is in compliance with the Bylaw. This is an unmanned facility, it takes approximately weeks to put up and there is no impact on the drainage. The facility is set back as far as possible on the property, away from Elm Street, which is why we require a setback variance. This is the exact same location that was preciously approved, where the other variance we are seeking is for the 20-foot on the pole, we believe a 120-foot monopole is more necessary for today's use. We believe we have explained the benefit of the variance from the 100-foot monopole rather than the 100-foot pole that is in the Bylaw.
- Mr. Parisi explains the three conditions of the Planning Board:
  - The height of the fence be 8-feet rather than 6-feet
  - The Applicant provides landscaping around the fenced site
- Since the site is set back so far into the woods, Mr. Parisi states that it would be counterproductive to plant and landscape around the fenced area. The Planning Board said a letter from the Homeowner would suffice.
- The third condition is the letter from the Engineer. The tower is close to Route 3, so if the tower were to ever "lie down", the tower is designed to collapse like an accordion. These towers are essentially overdesigned to mitigate any collapse issue; they bend like a fishing rod.
- Fran Parisi finishes his presentation stating that he respectfully asks that the Board approve the Special Permit.
- Judi Barrett asks Fran to take his computer off screen share
- Fran Parisi responds that it may be helpful for questions to leave it up and Judi Barrett agrees.
- Judi Barrett asks the Board if they have any questions for the Applicant
- Kathleen Munci responds that she would like to hear from Amory Engineering
- Judi Barrett asks Pat Brennan, are you here?
- Lauren Hache responds that he is not present in the Zoom meeting
- Wayne Dennison states, I am late today, but I want to let you know I cannot sit on this case.
- Judi Barrett explains to Wayne Dennison that we are not closing any hearings tonight

- Kathy Munci states that she was looking to see if Amory Engineers agrees with the pole collapsing
- Philip Thorn states he has two questions: 1. Are there lights on or around the structure?
- Fran Parisi responds that that is correct, he submit a report to FAA and there is no lighting
- Philip Thorns states my second question is in regard to telecomm law, and I don't know the exact legislature, but it pertains to the allowance of an extra 20 feet that can be added on to towers after the fact without approval
- Fran Parisi responds this is true, but we don't want to do that; this tower is not designed for that, we would agree to a condition on the Special Permit to not come back for the extended height.
- Philip Thorn asks so you would agree to a condition?
- Fran Parisi responds yes
- Judi Barrett asks if there is anyone else on the Board with questions
- Borys Gojnycz asks about falling on route 3, does the State sign off on something like this or is the town responsible
- Fran Parisi replies that Vertex Assets LLC is responsible for any liability, it's unanticipated.
- Borys Gojnycz asks does the State sign off or are they involved?
- Fran Parisi responds that they do get notified, but not in the Zoning process, but that we can send a zoning notice. I will look into this; we register with the state as part of the building process. Also, the State has built these towers in similar areas, like in the center of a cloverleaf in Randolph I believe on route 128.
- Judi Barrett asks are there any other questions, any Participants that would like to address the Board
- Lauren Hache states there are no hands raised
- James Wasielewski the Building Commissioner mentions that the fence by itself will need a structural stamp on the design as it is over the code of 7-feet and is necessary for high wind.
- Fran Parisi agrees
- Judith Barrett asks for a motion to continue to June 25<sup>th</sup> at 6:00pm
- Philip Thorn makes a motion.
- Freeman Boynton Jr seconds
- All in favor (roll call vote): Philip Thorn aye, Freeman Boynton Jr. aye, Borys Gojnycz aye, Kathleen Munci aye, Judi Barrett aye

**Motion: It was moved, seconded and unanimously voted to continue to June 25, 2020 at 6:00pm.**

**Moved by: PT**

**Seconded by: FB**

**Number in favor: 5**

**Number opposed: 0**

## BOARD OF APPEALS — MINUTES

**Case No: 2020-02**

**Petitioner: Brownbuilt Construction**

**Chris Leamy (Agent Duxbury Const.)**

**Address: 116 Tremont Street**

**Date: June 11, 2020 Time: 4:00 p.m.**

**Members present:** Judith Barrett, Kathleen Muncey, Wayne Dennison, Borys Gojnycz & Philip Thorn

**Members Voting:** Judith Barrett, Kathleen Muncey, Wayne Dennison, Borys Gojnycz & Philip Thorn

**Other persons present at the hearing:** James Wasielewski, Director of Municipal Services & Lauren Haché, Administrative Assistant

- Judy Barrett reads the packet information.
- Freeman Boynton Jr states, Madam Chair, I need to recuse myself.
- Judith Barrett stated ok, Thank you, asks who is voting
- Judi Barrett continues to read the Public Hearing Notice and states that in our packets we have an application, a site plan, drawings, revised plans received in May with some comments.
- On May 8<sup>th</sup> a memo from Tracy Mayo of the Board of Health states this will require a disposal permit.
- On May 20<sup>th</sup> Conservation Commission stated there are no wetlands and there are no issues.
- There are several letters of support from Abutters, a letter stamped May 21 from S&M Gas. A memo from the Planning Board dated 6/9/2020 where the Board voted unanimously in support
- A Design Review Board memo that Lauren Hache reads into the record dated June 4, 2020 where the Board had a few suggestions regarding the eaves and windows, looking for more functionality and utilization of the tower. The DRB stated they will approve once these changes are made.
- Chris Leamy of Duxbury Construction speaks on behalf of Scot Brown, begins the presentation introducing himself and stated that the land is under ½ acre lot, NBI, there is an existing building that was an office and they are proposing to demolish the existing structure and construct a two floor mixed use building with a basement. The building would have office space as well as four apartments on the top floor and furnish 27 parking spaces. Chris Leamy continues that the drainage system was designed, the septic and the curb cuts will be reused. There is a proposed signage that meets the Bylaw requirements. We have also made minor corrections based on the Design Review Boards memo. We will also share a right of way with the Abutters.
- Judith Barrett asks how many apartments are in the project.

- Chris Leamy responds four on the second floor
- Judi Barrett asks the Board if they have any questions for the Applicant
- Borys Gojnyecz states that the sign looks to be two posts and is solid from top to bottom. Will it obstruct the view? Due to heavy traffic in the area, especially for cars pulling in and out.
- Chris Leamy states that's a good question, first we are within the Bylaws with height and planning asked us to show the sight distance triangle and we showed that.
- Wayne Dennison asks is there a separate diagram that shows the sign or a diagram
- Chris Leamy states that sheet 7 of 7, near title block and then the sight distance triangle on sheet 3 of 7.
- Wayne Dennison replies thank you very much
- Judi Barrett asks are there plans to address the DRB
- Chris Leamy states yes, we modified these plans after their review
- Scott Brown states I am the owner, I met with the DRB and we addressed what they were concerned with. Eave returns, they were too boxy, so we changed those and then we added more windows. They have not seen this revision yet.
- Judi Barrett asks can the DRB get this drawing
- Scott Brown states yes, Lauren has it
- Judi Barrett asks Lauren, is it on file with us
- Lauren Hache replies yes
- Judi Barrett asks how we can get these to the DRB
- Lauren Hache responds I will get in touch with Sarah McCormick and get her the revised plans
- Judi Barrett asks if we can get a supplemental memo
- Scott Brown asks why do we need to continue
- Judi Barrett states that we have received far too much correspondence in the last 48 hours. We also need the supplemental letter from the DRB.
- Judi Barrett asks are there any other comments from the Public; can I get a motion to continue to June 25<sup>th</sup> at 6:00pm?
- Kathy Munci makes a motion
- Wayne Dennison seconds
- All in favor (roll call) Kathy Muncy aye, Wayne Dennsion aye, Philip Thorn aye, Borys Gojnyecz aye, Judi Barrett aye

**Motion: It was moved, seconded and unanimously voted to continue to June 25, 2020 at 6:00pm.**

**Moved by: KM**

**Seconded by: WD**

**Number in favor: 5**

**Number opposed: 0**

## BOARD OF APPEALS — MINUTES

**Case No: 2020-03**

**Petitioner: Larkin, 10 Pine Point Place**

**Jessica Williams (Agent)**

**Address: 10 Pine Point Place**

**Date: June 11, 2020 Time: 4:00 p.m.**

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

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

**Other persons present at the hearing:** James Wasielewski, Director of Municipal Services & Lauren Haché, Administrative Assistant

- Kathy Munci asks are we cutoff right at 5:30p, do we want to do the Administrative items first
- Judi Barrett explains that we need to let this Applicant open the hearing first
- Judi Barrett opens the hearing, reads the Public Hearing notice and states in our packets we have an application, plan and photos, analysis of lot coverage, a memo from Conservation Commission dated 6/11/20 that the Applicant will need to file a notice of intent, a memo from the Board of Health dated 5/11/20 stating that the septic is on the Marshfield Treatment Plant, we have an email dated 5/14/20 from residents names Hulme at 17 Pine Point Place with concerns regarding the easement and road issues. An email from Judy Flynn dated 6/9/20 attaching submissions and an email from Nichols in support. There is a Planning Board memo dated 6/9/20 in approval. An email from J Williams regarding the DRB and that they didn't have a proper meeting where the Public could join, even though the DRB had a number of complimentary comments.
- Jessica Williams introduces herself as the Agent for the Larkins. She states that this project is a typical preexisting structure on a small lot. She shares her screen to show that the project is a two story dwelling on the property. They want to maintain the nonconformities and they are requesting a special permit to ass 50% and 3% so 21.2% coverage and proceeds to show her 3D model of the home. She shows the salt marsh and buffer zone and the coastal zone flowage. They cannot add on or fix the existing, we have to bring it up to code by AD10-we must be at 11. The house is built on pilings, FEMA restriction on the previous coverage of 500 sq. ft. As she is sharing her screen, she shows the second floor plans, showing the elevation. She states this is a modern structure, a net zero design with passive solar in which it will create more energy than it uses in the first year. The floor plan shows a small entry with small square footage; We're building this to FEMA code and proceeds to show the solar design. Ms. Williams shows the model in three dimensions, pulling the structure off the marsh and lifting it off while



existing in 3 feet 6 inches currently. There will allow for water flow below. There will be no traffic blocking as the owners have an adjacent lot for parking and construction vehicles. As for the views, we met with Mr. Flynn...

- Wayne Dennison interrupts about continuing the hearing before time runs out.
- Wayne Dennison asks Lauren...
- Freeman Boynton Jr states June 25<sup>th</sup> at 6:00pm, Freeman makes a motion.
- Judi Barrett seconds
- Freeman Boynton Jr asks about a site visit
- Judi Barrett encourages the Board member to do their own due diligence on their own time.
- All in favor (roll call) Judi Barrett aye, Wayne Dennison aye, Kathy Munci aye, Boris Gojnycz aye, Freeman Boynton Jr. aye

**Motion: It was moved, seconded and unanimously voted to continue to June 25, 2020 at 6:00pm.**

**Moved by: FB**

**Seconded by: JB**

**Number in favor: 5**

**Number opposed: 0**

## **BOARD OF APPEALS — MINUTES**

### **ADMINISTRATIVE**

**Transfer of special permit #90-6, 1508 Tremont St. Unit B:** The Applicant is requesting a Special Permit transfer as the new owner of the property.

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

**Members Voting:** Judith Barrett, Kathleen Muncey, Philip Thorn, Borys Gojnycz & Freeman Boynton Jr.

**Other persons present at the hearing:** James Wasielewski, Director of Municipal Services & Lauren Haché, Administrative Assistant

- Kathy Munci states that this is pretty straight forward, a special permit transfer
- Philip Thorn makes a motion
- Borys Gohnycz makes a second
- Roll call vote to approve: Freeman Boynton Jr aye, Judi Barrett aye, Borys Gojnycz aye, Kathleen Munci aye, Philip Thorn aye

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

**Moved by:** PT

**Seconded by:** BG

**Number in favor:** 5

**Number opposed:** 0

## **BOARD OF APPEALS — MINUTES**

### **ADMINISTRATIVE**

**Transfer of special permit #83-12 & 88-3, 1474 Tremont Street:** The Applicant is requesting a special permit transfer as the new owner of the property. The Applicant is moving from 127 Tremont St to 1474 Tremont St.

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

**Members Voting:** Judith Barrett, Kathleen Muncey, Philip Thorn, Borys Gojnycz & Freeman Boynton Jr.

**Other persons present at the hearing:** James Wasielewski, Director of Municipal Services & Lauren Haché, Administrative Assistant

- Borys Gohnycz makes a motion
- Freeman Boynton Jr second
- Roll call vote to approve: Freeman Boynton Jr aye, Judi Barrett aye, Borys Gojnycz aye, Kathleen Munci aye, Philip Thorn aye

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

**Moved by:** BG

**Seconded by:** FB

**Number in favor:** 5

**Number opposed:** 0

## BOARD OF APPEALS — MINUTES

### ADMINISTRATIVE

**Review the conditions of special permit #2019-01 Duxbury Animal Hospital:** The Applicant has completed the conditions of the special permit, so that the Board may review the landscape plan, lighting plan and the letter of approval from the Design Review Board.

**Members Present:** Judith Barrett, Wayne Dennsion, Kathy Munci, Philip Thorn, Freeman Boynton Jr. & Borys Gojyncz

**Members Voting:** Judith Barrett, Kathleen Muncey, Philip Thorn, Borys Gojyncz & Freeman Boynton Jr.

**Other persons present at the hearing:** James Wasielewski, Director of Municipal Services & Lauren Haché, Administrative Assistant

- Judi Barrett states that the DRB met and approves the new lighting and landscape designs.
- Judi Barrett states she does not feel ready to vote on this
- Dan Hebert, owner of Duxbury Animal Hospital, asks why
- Judi Barrett states that we as a Board have not been able to meet, PAC Tv wouldn't let us meet
- Dan Hebert states this has been going on for 2 ½ years now
- Judi Barrett responds that if the other Board members feel ready we can move forward. Kathy-yes, Borys-yes, Freeman-no, Philip Thorn-yes, Wayne Dennsion-no
- Wayne Dennsion asks can we do this administratively?
- Dan Hebert responds that that was what he was told at the last Public Hearing.
- Judi Barrett agrees
- Wayne Dennsions states frankly, my concern is this, we have the state law in place and it extends us to address these matters-this hasn't lapsed. I don't want to act on something too quickly.
- Judi Barrett asks if we have 5 votes.
- Dan Hebert explains that he cannot keep up with the patient load, 90 hour weeks, we need this expansion, now
- Judi Barrett asks If we have four people to vote/agree
- Dan Hebert explains I'm trying to take care of your pets, not open a bar.
- Judi Barrett states she is turning the hearing over to Kathy Munci; Freeman Boynton Jr states he can vote
- Dan Hebert states that the lighting is not an issue, all the neighbors are in agreeance.
- Freeman Boynton Jr states that there is no light being cast off the building
- Kathy Munci agrees

- Freeman Biynton Jr asks what is the decision page of the special permit
- Kathy Munci states just the three conditions, the lighting plan, landscape plan and letter of approval from the Design Review Board.
- Kathy Muncu makes a motion to approve the condition of the special permit and that 1,2 and 3 have been fulfilled.
- Philip Thorn second
- All in favor (roll call vote) Kathy Munci aye, Philip Thorn aye, Borys Gojnycz aye, Freeman Boynton Jr aye, Judi Barrett abstain

**Motion: It was moved, seconded and voted 4 to 0 to approve the special permit conditions.**

**Moved by: KM**

**Seconded by: PT**

**Number in favor: 4**

**Number opposed: 0**

Judi Barrett states there is one last vote to agree to continue the 2019-17 case of WB Builders to June 25<sup>th</sup> at 6:00pm.

Wayne Dennison makes a motion, Kathy Munci second

All in favor (roll call vote) Wayne Dennison aye, Kathy Munci aye, Philip Thorn aye, Borys Gojnycz aye & Freeman Boynton Jr aye

Motion to Adjourn Kathleen Munci, Second Wayne Dennison

All in favor Freeman Boynton Jr aye, Kathleen Munci aye, Philip Thorn aye, Wayne Dennison aye & Borys Gojnycz aye