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TOWN OF DUXBURY



BOARD OF APPEALS

DUXBURY BOARD OF APPEALS

MEETING MINUTES

April 12, 2018 @ 7:30 p.m.

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

CALL TO ORDER: Judith Barrett called the meeting to order.

- **ZBA Case #2017-05 SSHH (DAHT), 66 Lake Shore Drive:** *The Board moved to approve the modifications to the Comprehensive Permit. All in favor (5-0).*
- **ZBA Case #2018-04, Urquhart, 46 Ocean Road North:** *The Board moved to approve the special permit. All in favor (5-0).*

Freeman Boynton, Jr. makes a motion to close the public hearing for 66 Lakeshore Drive. Emmett Sheehan seconds. All in favor (5-0).

Emmett Sheehan makes a motion to approve the modifications to the Comprehensive Permit for 66 Lakeshore Drive. Kathleen Muncey seconds. All in favor (5-0).

Freeman Boynton, Jr. makes a motion to close the public hearing for 46 Ocean Road North. Emmett Sheehan seconds. All in favor (5-0).

Emmett Sheehan makes a motion to grant the special permit for 46 Ocean Road North. Kathleen Muncey seconds. All in favor (5-0).

BOARD OF APPEALS — MINUTES

Applicant: South Shore Habitat for Humanity

Property Address: 66 Lakeshore Drive

Case No: 2017-05

Date: April 12, 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, April 12, 2018 at 7:30 p.m. to consider the application of South Shore Habitat for Humanity to amend the Comprehensive Permit issued on October 12, 2017. The property is located at 66 Lake Shore Drive, Parcel No. 018-500-121 of the Duxbury Assessors Map, consisting of 0.70 acres in the Residential Compatibility and Water Protection Districts and owned by Duxbury Affordable Housing Trust. The Applicant proposes changes to the original building plan of the single family home on a nonconforming lot that meets the definition of low and moderate income housing under G.L. c. 40B, Sections 20-23

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

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

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

- Judith Barrett, Chair Pro Tem, calls the meeting to order and then explains that South Shore Habitat is there to request to modify the Comprehensive Permit and reads the public hearing notice into record.
- Ms. Barrett cites and reads, some in part, the correspondence received – an application, Board of Health Memo with no comments & a Memo from the Design Review Board approving the proposed changes.
- Judith Barrett asks if there is any other correspondence.
- Angela Ball answers, stating that the Conservation Commission provided a Memo stating they had no concerns and that the Planning provided an email stating they recommend approval and defer to the ZBA.
- Judith Barrett explains the background of the Comprehensive Permit, stating it was issued to South Shore Habitat in October of 2017 to build a single family home on property now known as 66 Lakeshore Drive and that since then SSHH found that they needed to modify the original plans therefore they needed to come back to the board and determine if the changes were substantial and they did and that's why we are here. Ms. Barrett invited the applicant to present.
- Noreen Browne of South Shore Habitat for Humanity states that as they got into the building they noticed a few items and that the biggest one was the stairs. Ms. Browne states that the stairs were off the back of the house and now they'll be off the side as it was almost a danger to have so many off the back. She also states they changed the side lights on the door, a slider door off the back and a window in the back has now changed as both windows were donated.
- Judith Barrett asks if the Board has any questions.
- Freeman Boynton, Jr. asks if it affects the setbacks.
- Ron Waite states it is 64.2'.
- Judith Barrett asks if there are any other questions. No.
- Judith Barrett asks if there is anyone else that would like to speak.
- Ron Waite, construction manager for SSHH asks if shutters are ok.
- Judith Barrett responds stating that shutters would be ok.

- Freeman Boynton, Jr. makes a motion to close the hearing.
- Emmett Sheehan seconds.
- Emmett Sheehan makes a motion to approve the changes/modifications to the Comprehensive Permit as proposed.
- Kathleen Muncey seconds. All in favor (5-0).

Motion: It was moved, seconded and unanimously voted to close the public hearing.

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: KM

Number in favor: 5

Number opposed: 0

BOARD OF APPEALS — MINUTES

Case No: 2018-04

Applicant: Stephen Urquhart
(Agent, Jessica Williams)

Property Address: 46 Ocean Road North

Case No: 2018-04

Date: April 12, 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, April 12, 2018 at 7:30 p.m. to consider the application of Stephen Urquhart for a Special Permit under Article(s) 400 and 900, Section(s) 401.2, 410.4, and 906.2 of the Duxbury Protective Bylaw. The property is located at 46 Ocean Road North, Parcel No. 139-939-206 of the Duxbury Assessors Map, consisting of 3,049 S.F. in the Residential Compatibility District and owned by Stephen P. & Katherine M. Urquhart. The Applicant proposes to raze and rebuild a pre-existing, nonconforming structure, plans for which encroach in the setbacks, increase volume and exceed the allowable coverage. A Special Permit is required.

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

Members Voting: Judith Barrett, Kathleen Muncey, Freeman Boynton, Jr., Dimitri Theodossiou & Emmett Sheehan

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

- Judith Barrett states that the next case on the agenda is for 46 Ocean Road North, the Applicant being Urquhart. Judith Barrett reads the public hearing notice into record and then cites, and reads some in part, the correspondence received – the application, the photographs, a letter in support from abutter Krugger of 48 Ocean Road North, a Notice dated March 15, 2018 that a Notice of Intent was filed with the Conservation Commission, Board of Health Memo, an email in support from McLaughlin, a Memo from the Conservation Commission, a Memo from the Planning Board dated March 29, 2018, a Memo from the Design Review Board dated April 3, 2018, and emails in support from Mann of 241 Gurnet Road, Norris of 53 Ocean Road North, Kelley of 43 Ocean Road North, a letter from Federici of 29 Hummarock Lane, and an email in support from Wolff.
- Judith Barrett invites Jessica Williams (agent for the Applicant) to present.
- Jessica Williams of Williams Design Studio begins by explaining the diagram she's presenting, stating that it's the site plan that she's colored to see the areas more clearly. Jessica states that the idea was to maintain the footprint, but she wanted to use clean 2' increments and in doing that the coverage percentage has increased, that the increase was towards the street but all other areas have decreased. Ms. Williams goes on to describe that the design of the house is a pseudo contemporary, cape-style, but finishing plan will be with traditional details. Jessica explains the floor plan and where parking and backyard access is. She explains that the increase in volume is due to adding a second floor bedroom and that the mechanics for the home will be in the attic as they cannot do it in the

basement. Ms. Williams shows photos of the neighborhood homes to the south, north and on the opposite side of the street to show elevation and scale, etc. and she states that all on water side are entirely elevated now.

- Freeman Boynton, Jr. states that there are quite a few letters of support, but he's wondering if the neighbors to the south have weighed in.
- Wayne Miller of 44 Ocean Road North states that is him and he is in complete support.
- Borys Gojncz states that he is curious about seawall and what the plan is.
- Scott Lambiase states that Dimitri can report about that soon being on the seawall committee.
- Borys Gojncz states that he only sees a steel plate holding it up and that debris is everywhere and concern is if houses go up, then water will be able to keep flowing through.
- Freeman Boynton, Jr. states that it seems to be a benefit to the neighborhood with it being on stilts.
- Borys Gojncz states that he agrees, but where will water eventually go if everything is up, and that in Carolina beach is gone.
- Freeman Boynton, Jr. states that it won't if they build a seawall.
- Dimitri Theodossiou asks if she can explain the foundation that'll be used.
- Jessica Williams states that it'll be Rivermore in Scituate doing the plan and it has been approved by Conservation and it'll be individual piers.
- Freeman Boynton, Jr. asks how deep.
- Jessica Williams states she is not sure as she doesn't have the plan in front of her, but assumes typical depth.
- Dimitri asks if it'll be poured concrete, not a precast.
- Jessica Williams states that it'll be poured and on individual footings.
- Emmett Sheehan asks what a typical depth is.
- Freeman Boynton, Jr. states that if the beach washes away the concern is if it'll still be deep enough, that if you put in a salt marsh you'd have to drive pilings into the ground at 20'.
- Dimitri states that is why he asked and if she knows what soil is.
- Jessica Williams states that she doesn't but that during the demolition process they'll find out and that in her experience it's been pilings as the process for that is a tight one; however, we did design the foundation and had Conservation approve it but if we run into an existing condition that requires that plan change, then we will drive piles versus the piers if necessary.
- Freeman Boynton asks if she has a copy of the engineering design as he's curious of the elevation.
- Judith Barrett asks Scott Lambiase if he has any input on this.
- Scott Lambiase states that as of now, no, but they'll get out there to look at it once they start digging holes and if they find that the soil conditions don't appear right they'd ask them to re-engineer it, but we don't know yet. We do know the closer you get to the water the deeper you'd go as the footings can get exposed.
- Dimitri asks what FEMA requires.
- Scott Lambiase states that it'd be a height that'd be dictated but that's for the most horizontal structure but most of it is engineering and building code and that Conservation has most of the say as to the type of pile, they'd typically want wooden driven piles, but they have approved concrete. We defer to Conservation.
- Dimitri asks if they commented on that.

- Judith Barrett states that no, not in the memo but she hasn't read the order of conditions.
- Jessica Williams states that she has the order of conditions but was not at the meeting so she's not sure, but that she knows they approved the piers so she assumes they approved that. She gives the copy to Freeman Boynton, Jr. after he offers to take a look.
- Dimitri states that the neighbor's letter commented about restoring the site to existing elevation and asks Jessica to clarify.
- Jessica Williams states that it means that the grade that we started with needs to be the grade that we end with, meaning that if it dipped down it would create velocity, so we would restore this property back to the existing grade.
- Kathleen Muncey asks if that is part of the order of conditions.
- Jessica Williams states that she believes it is.
- Dimitri Theodossiou asks if other people have done that, and it sounds like from the comment that it has happened before.
- Jessica Williams states that she's not sure, that the projects she's worked on they've all been restored.
- Tom Shirer of 41 Ocean Road North states that it does happen, that what it is is in the winter it occurs but everyone fills it back in.
- Dimitri Theodossiou states that he understands, it's erosion.
- Kathleen Muncey asks if anyone else would like to speak in favor or against this.
- Jim Duffy of 59 Ocean Road North states that he supports the project.
- Tom Shirer states that he supports the project.
- Freeman Boynton, Jr. states that according to the orders it states that it'll be open pile foundation without any continuous footings.
- Judith Barrett asks what he's suggesting they do if it's already been determined by Conservation.
- Freeman states that what he is saying it appears that they submitted a foundation drawing but they are supposed to before they start the project, quoting from the orders "prior to the start of the project an open pile foundation plan shall be submitted to the Conservation Commission administrator for approval". He states that it seems that the Conservation Administrator has not seen it although he's sure it'll be something that is acceptable.
- Jessica Williams states that she's not aware that it wasn't done as she knows she did provide Grady with the foundation drawing so perhaps he didn't present it, she's not sure.
- Emmett Sheehan asks if it's Grady consulting.
- Jessica Williams states yes, Grady went to the Conservation Commission to seek the approval and Rivermore provided the footing plan for the approval and so it may be that Grady didn't have the plan.
- Freeman Boynton, Jr. states that he's not worried about it and he's sure Joe will and Scott will take care of it.
- Scott Lambiasi states that a code compliant plan will be required.
- Jessica Williams states that she knows she can speak for Kathy & Steve when she says that they want to do what's right and have the home around for their grandson, so if that means putting it on piles they'll do that or if footings work, they'll do that.
- Judith Barrett states that she trust the professional staff to sort this out and suggests that it'd be helpful to have a workshop for all to educate about this as she anticipates more projects like these.

- Scott Lambiase concurs.
- Judith Barrett asks if anyone has any thoughts or concerns or suggested conditions.
- Freeman Boynton asks how many bedrooms and if it's still 3.
- Emmett Sheehan asks if it's a summer home.
- Steve Urquhart states that they bought the home and rented it for a while but they want to retire there and this has always been their dream and the neighborhood is like family and we all pull together to clean up after storms. We'd like to retire there and we have grandchildren.
- Judith Barrett asks if anyone else would like to speak, discussion, questions. No.
- Freeman Boynton, Jr. makes a motion to close the public hearing.
- Emmett Sheehan seconds. All in favor (5-0).
- Emmett Sheehan makes a motion to approve the project as described and as drawn, no conditions.
- Kathleen Muncey seconds.
- Judith Barrett states that they need to bear in mind that it's an application to extend or alter a pre-existing non-conforming structure. Is this a substantial increase in the nonconforming nature of that structure? Any comments on that?
- Emmett Sheehan states that he thinks it's not, getting better on some sides although it's getting more volume, but it's within character of neighborhood.
- Judith Barrett asks Dimitri if he has any comments.
- Dimitri asks if it's the 200% increase in volume she means
- Judith Barrett states she's not bothered by the increase in volume, because in all other respects it's an improvement and a necessity.
- Freeman Boynton, Jr. states that if you measure the volume during a 100 year storm it wouldn't be as big.
- Judith Barrett asks if it is the inclination of the Board then that this is not a substantial increase in the nonconforming nature of the existing structure.
- Freeman Boynton, Jr. & Emmett Sheehan both concur.
- Judith Barrett states that if we make that determination we are basically granting the special permit and goes on to ask if all are satisfied with that and if there should be any conditions.
- Freeman Boynton, Jr. asks if they are so close to the height requirement, are they sure they won't exceed it in the end.
- Scott Lambiase states that they do ask for elevation certificates at the end.
- Freeman Boynton, Jr. states that the grade is pretty tricky, that is measured from 20' out in front of the house and that grade can't change because the whole neighborhood has to be flat.
- Judith Barrett asks if he is saying we should state in the decision that the height shall conform.
- Freeman Boynton, Jr. states that no, but he is saying they need to double check their numbers, that's all.
- Emmett Sheehan states it has to conform.
- Judith Barrett states that she thinks that is true, that it doesn't have to be a condition.
- Freeman Boynton, Jr. states that he agrees, just to make sure it's not too high.
- Judith Barrett states that we can write it in the decision that the height concern is part of the discussion.
- Judith Barrett asks Freeman if he has any other concerns regarding the height.

- Borys Gojncyz states that although he is not voting, he is wondering about the finishing choices, as the Design Review Board mentioned it.
- Jessica Williams states that they are thinking of going with a natural finish, most likely a cedar trim versus a white trim and on the decking we may have white or dark posts, but ultimately the house will be shingled with a color and we are keeping with the neighborhood.
- Judith Barrett asks if a motion was made. Dimitri Theodossiou states that yes, Emmett did. All agree they are in favor of motion. All in favor (5-0).
- Kathleen Muncey makes a motion to adjourn. Judith Barrett seconds. All in favor.

Motion: It was moved, seconded and unanimously voted to close the public hearing.

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: KM

Number in favor: 5

Number opposed: