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DUXBURY, MASS.

**TOWN OF DUXBURY**



**BOARD OF APPEALS**

**DUXBURY BOARD OF APPEALS**

**MEETING MINUTES**

December 2, 2021 @ 7:30 p.m.

**ATTENDANCE:** Wayne Dennison, Judith Barrett, Kathleen Muncey, Freeman Boynton Jr., Emmett Sheehan, Philip Thorn, Borys Gojnycz and Tanya Trevisan

**Other persons present at the hearing:** Lauren Haché, Administrative Assistant

**CALL TO ORDER:** Wayne Dennison called the meeting to order and reads the Governor's Preamble: Pursuant to Chapter 20 of the Acts of 2021, this meeting will be conducted in person and, as a courtesy, via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public and board members, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless required by law. 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 including streaming on Duxbury You Tube, to watch replays and Video on Demand.

**ZBA Case #2021-06, Harlow Brook LLC, Village at Harlow Brook, 766, 782 and 0 Temple Street (CONT'D):** *The Board voted unanimously (5-0) to continue the public hearing to January 13, 2022 at 7:30 p.m.*

**ZBA Case #2021-11, EJP Ice House LLC, Lot 7 Ice House Road-APPEAL (CONT'D):** *The Board voted unanimously (5-0) to grant the Applicants request to withdraw the case.*

**ZBA Case #2021-15, McKeag, 39 Shipyard Lane (CONT'D):** *The Board voted unanimously (5-0) to continue the public hearing to December 9, 2021 at 7:30 p.m.*

**ZBA Case #2021-31, Hollis, 10 Mullins Avenue (CONT'D):** *The Board voted unanimously (5-0) to approve the special permit with conditions.*

**ZBA Case #2021-32, The Parish of St. John the Evangelist (CONT'D):**

**ZBA Case #2021-33, Rice, 140 Marshall Street (CONT'D):** *The Board voted unanimously (5-0) to continue the public hearing to February 10, 2022 at 7:30 p.m.*

**Administrative**

**Webster Point Village:** *The Board voted unanimously to approve the invoice for legal fees incurred.*

*Judith Barrett approves the meeting minutes from October 28, 2021*

*Wayne Dennison makes a motion to close the public hearing. Kathleen Muncey seconds (5-0)*

## BOARD OF APPEALS — MINUTES

**Case No: 2021-06**

**Petitioner: Harlow Brook LLC**

**Address: 0, 766 & 782 Temple Street**

**Date: December 2, 2021 Time: 7:30 p.m.**

**(Continued from March 11, 2021, May 13, 2021, June 10, 2021, June 24, 2021, September 23, 2021 & October 28, 2021)**

**Members present:** Judith Barrett (CPT), Wayne Dennison, Kathleen Muncey, Freeman Boynton, Emmett Sheehan, Philip Thorn & Tanya Trevisan

**Members Voting:** Judith Barrett (CPT), Wayne Dennison, Kathleen Muncey, Freeman Boynton Jr., Emmett Sheehan, Philip Thorn & Borys Gojnycz

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

- Judith Barrett re-opens the public hearing and reads letters into the record. The first letter from Alia Samad-Salameh, of 16 Laurel Street, outlining traffic concerns and the environmental impacts concerns and then another letter regarding a natural habitat concerns. Ms. Barrett states we received a memo from the Historical Commission and they are suggesting pushing the development back from the street. Mrs. Barrett continues to explain the order of business for the evening and states that we will hear from Rob Nagi with VHB, the Town's Traffic Peer Review Consultant.
- Freeman Boynton Jr. states may I first suggest scheduling a site visit; I am worried we may be cutoff at the end of the meeting. Mr. Boynton suggests perhaps having the developer stake out where the buildings are in reference to the road and perhaps show where they sit on the property and the road entrance
- Judith Barrett agrees and asks the Applicants when is a good time
- Mark Casey states with the workload, probably the beginning of January
- Attorney Robert Galvin states we also submitted a new landscape plan that changes the street scape
- Judith Barrett states would mid-January work
- Paul Casey states yes
- Judith Barrett states January 8, 2022
- Freeman Boynton Jr. states I would prefer not a weekend
- Judith Barrett states how about Friday, January 7, 2022 at 9:00am and Judith Barrett states that also brings up the question of whether or not the Applicant will allow the Public to participate
- Robert Galvin states Mounir is transparent and fully understands that people need to see this to understand it
- Judith Barrett asks Mr. Nagi to report his findings
- Robert Nagi states thank you, I am a professional Engineer and Traffic Engineer based out of Watertown. We focused on the traffic study here and we look at that through three



different lenses. The first being does the traffic study comply with industry standards, is it done accurately, is it done to engineering quality. The second is does the project create operational hazards or issues meaning are there going to be delays on roadways, is there going to be enough parking spaces to support the projects. Third and most important is safety and understanding what the role of this project is and understanding the infrastructure that exists out there today. With this project here, we looked at in detail and we have reviewed Mr. Dirk's work previously and know that this study was done to industry standards. There are a couple of little things that we have asked for clarification on and a few things to zoom in on as it relates to other projects around this one. The study was done before COVID-19, where we know after covid, traffic numbers are a lot less. In our perspective, if you are using pre-covid numbers, you are capturing the worst-case scenario. So in this particular case, there is a 40 unit project is not generating a lot of traffic. Probably 20-25 cars an hour and this is typical for industry standards. In general, we look at one car per unit during rush hour according to industry standards. Temple Street is narrow and the traffic volume is low. You see about 100-150 cars an hour and the posted speed limit is generally abided by. We asked the Applicants about pending projects in the area, not included in their Traffic Report and they spoke to the Planning Board and conformed that there are two projects, those are 878 Tremont Street which is a twelve unit subdivision and Keene's Mill Village which is a 28 unit multi-family project. In both cases, those projects were close to this project, but the traffic disbursement won't affect Temple Street. We feel confident in the report provided by Vanesse. The project itself from a design standpoint, in terms of sightlines, the Applicant has put on their site plan the sight triangles that meet the ASHTO design standards. I recommend that you put that as a condition, should the project be approved so that drivers can see in both directions. We rate intersections from A to F, this came in at an A, so there won't be any sight issues here and the project itself won't alter any impacts. Now we focus on the operation side of the sight, such as parking and we want at a minimum for each home two spaces. We heard back from the Applicant and they are proposing 185 parking spots, so that well exceeds the minimum suggestion of two per unit. That way there is no concern for over flow to the main street or other neighborhoods. We spoke about sidewalks and connected with the Site Engineer. We recommend driveways should be at least twenty one feet long. Also we see that the sidewalks in the development end at the street and do not continue on to Temple, we wanted to make sure the Board understood that. We also note school bus pick up and drop off locations and that should be put on the plans, so that it shouldn't be on Temple Street unless they have refuge on Temple Street to keep the kids safe.

- Emmett Sheehan states refuge, shack?
- Rob Nagi agrees and states a shelter or wide sidewalk area. Mr. Nagi continues we are comfortable with the impact of vehicles. There is an increase of 15 percent; it should be a huge impact to the road. Lastly, the Applicant made suggestions about TDM or Transportation Demand Management or ways to reduce the impact, like single driver vehicles. We recommend that you adopt the TDM method. We did look at Fire Apparatus and I would recommend the Board get something in writing.
- Judith Barrett states we will
- Rob Nagi states also equestrian riding out here, I did mention that it should be given notice to residents moving in should be made aware of the rules if the road with horses etc. and true to the last one, driveway separation. The Town has a regulation where driveways should be lined up or separated by 200 feet and in this case, it is unclear in the sight plans I was reading. So I am happy to answer any questions



- Judith Barrett states thank you, does anyone have any questions for Rob. Let's here from Pat Brennan
- Pat Brennan with Amory Engineers states I submitted a letter back in March with twenty-eight comments and the Applicant resubmitted plans October 21<sup>st</sup> but I haven't submit another letter, I thought it would be easier to speak. The first three comments were in regards to their waivers list; the Board has to have more exact information on what Bylaws they are seeking relief on and what that relief is. Also, it's not a subdivision so in my mind it should be constructed like a subdivision roadway and my recommendation to the Board would be to have them submit specific waivers that wouldn't comply to a subdivision for a better idea of road construction and up to Town standards. The majority of this site is to be constructed in fill, so I asked them for a Mass Balance Analysis to show the Board how much fill will be imported and exported to the site. On the October submittal they provided that analysis and the net fill for the project is determined to be 41,452 cubic yards. That is a lot of fill and a lot of trucks, so that is why I bring that up. It will be an awful lot of construction traffic. The grass strip was widened to two feet, which is the minimum of what I would recommend. We are looking for snow storage areas, near the mailboxes on the site, the landscaping plan I had asked for, that is more for the Board to review. The next point that I see moving into storm water erosion control, they have seventeen infiltration systems on this site, they are infiltrating roof units and roadway runoff. At the end of the roadway they have an open air raingarden. Typically you would have test pits at each of these basins to show there is adequate soils and adequate separation to ground water. If the Board chooses, I can present you with a condition for the test pits. We prefer to get these up front, I know with a 40B we typically do not. I am pretty confident with the storm water modeling they have on the plan. There is a couple of infiltration systems within 50 feet from the wetlands and they are going to move those to outside that buffer. On utilities, their Nitrogen Loading analysis shows their Nitrogen Loading is 94 Mg/L and the Town's standard is 5 Mg/L. They will need a waiver for that. I do note that the Mass DEP standard is 10 Mg/L so they are under the State, but they will need a waiver for the Town's regulation. All of those comments were on my October letter. They still have to review their ground water mounding, but we are heading down the right path with the civil engineering of the project. I have met with Mark Casey and we are working together to address these issues.
- Judith Barrett states so if we don't have the appropriate soil testing from where these test basins are located, that basically means the Board may have to meet again on this project someday because they didn't do their homework now.
- Pat Brennan states I will go through and see how many more test holes they need at these infiltration systems are located
- Judith Barrett states so Pat, I think one of the concerns of the Peer Review Architect is that the proposed buildings don't relate to the site plans that we have
- Pat Brennan states I will double check that and just to reiterate there is a massive amount of fill coming into the site
- Judith Barrett states would you like to have your Consultants speak
- Attorney Galvin states there was a comment about the subdivision rules and regulations, so having gone through the appeals previously with regard to subdivision and the housing appeals committee will tell you can't make them comply with a planning development when it is not one.
- Jeffrey Dirk with Vanasse Engineers states we appreciate Mr. Nagi's reporting and there are only two point to make, we did take very seriously with regard to the equestrian comment



and activity in the area. We have made a commitment to posting the appropriate signage throughout the site and also to notifying all residents within. Lastly with regard to sight distances, as Mr. Nagi had said, the critical areas for the Board to see the sight triangle areas and that there is nothing impeding that sight distance.

- Judith Barrett states Mr. Casey do you have any comments.
- Mark Casey shares his screen of the new landscape plan and states we did do 23 test pits on site and we will definitely do some more observation pits if the Board would like us to do. Mr. Casey explains the distances of the proposed buildings to the intersection with Temple Street. The frontage is in excess of two hundred feet so it exceeds the guidelines
- Freeman Boynton Jr states what is the dashed line
- Paul Casey states it is a 35 foot offset and the one on the street is 50 feet
- Robert Galvin states we have also added a school bus lot awning, as we know that the school bus will not come into the development. Also, these are two bedroom units with first floor master bedroom, so we don't anticipate a lot of school aged children living in these units
- Kathleen Muncey states I have a question on the fill, what does this translate into as number of trucks
- Mark Casey states 1,600 vehicle trips
- Kathleen Muncey states over what period of time
- Mark Casey states over 120 days
- Judith Barrett states Mr. Nagi you may want to advise the Board; oh, I am sorry Mr. Casey you finish. At what point though, does this impact a traffic study and street traffic and how it gets managed
- Mark Casey states it's a temporary situation
- Judith Barrett states fine, but there are still people living there
- Robert Galvin states you have addressed these earth removal issues in the past and there are current projects with earth removal and there are restrictions to hours
- Kathleen Muncey states right, he mentioned a lot of fill, so I wanted to have a sense of what a lot meant
- Rob Nagi states so one of the things that we typically ask for is a construction management plan where the document where and how the tradesmen re going to park, you don't want them out on the local street network. You want them to come in to the site and park; Also to identify a truck routing plan to ensure it is staying on local roads.
- Judith Barrett states we would appreciate it if you would provide suggested language of a condition
- Rob Nagi agrees, I will work with your staff to come up with a reasonable plan
- Judith Barrett states Mr. Casey do you have anything more to say to us this evening
- Mark Casey states not at this time
- Judith Barrett asks if the Board has any questions about the landscape plan
- Judith Barrett states Mr. Dirk did you want to say anything regarding the construction traffic impacts
- Jeffrey Dirk states I agree with what Mr. Nagi said, I think a Construction Management plan is good in all cases. I also think that understanding the number of trucks and the time of day they will be on the road is important
- Judith Barrett states is there anything more to add from the Applicant, we need to figure out a continuance date and where we are with the 180 days
- Bob Galvin states we are all set



- Judith Barrett opens the floor to the Public
- Alia Samad-Salameh, 16 Laurel Street, I live across the street from the project. I am a little concerned about the fill coming in and the traffic peer review. I feel as though some of this is contradictory. I asked eight months ago in a letter to ask about what will happen with Laurel Street and the affordable housing trust property and that wasn't raised at all. I also have an issue with the bus stop and putting in a shelter inside the non-subdivision there are still kids who don't live in there that need to be picked up, this confuses me. Also the sight triangle, I welcome the site visit and I think you will see the triangle. The landscaping plan did that just come in today, there is a lot more to discuss here.
- Judith Barrett states that is why we are continuing the hearing
- Alia Samad-Salameh agrees, ok thank you
- Judith Barrett states nothing final will be decided about the school bus stop without the school department approving it. I don't want anyone worrying about that.
- Kira Sullivan, 756 Temple Street, I wanted to point out a couple of things and asks Lauren to share the site plan again on the screen. Our property line abuts the entire property and I have serious concerns with the architectural design and the project density. This will severely alter the context of where we live.
- Patrick Gagnon, 45 Amado Lane, I have some comments about the traffic study. My concern is the speed of vehicles as the cars turn on to Laurel, as vehicles will be slowing to turn. We also have concern with the bicycle path that is there. We are curious as to what time of year that traffic study was done. Can we comment on design now or to be continued
- Judith Barrett states I would like to hold off on design until we hear from our Peer Review Consultant. Mr. Dirk did you hear all of that
- Jeff Dirk states yes, thank you. The traffic counts were done in September 2019, prior to COVID. It was early September on the 4<sup>th</sup> and 5<sup>th</sup> and we did include head activity (bikes etc.). We calculate speeds as you encounter the driveway location
- Judith Barrett states thank you
- Robert Melton, 732 Temple Street, I am also an abutter. I am generally supportive of this project, I definitely have concerns with density especially with the Affordable Housing Trust and third future plans. While I don't presume to fully understand a Traffic Study, I have been working from home for the past ten months, staring out my window at Temple Street for ten hours a day. I can tell you there is a lot of pedestrian traffic on Temple Street. I would just raise that point. Those are my concerns, density and then the construction traffic.
- Judith Barrett states understood
- Ted Donnelly, 10 Amado Way, states I would like to say I really appreciate a clear construction management plan. I am also concerned with the volume of trucks, what happens if Temple Street is damaged but this
- Judith Barrett states I would like to address the comments about density. The Board can't jump on density itself, but it's the impact of the density. What is the impact of this development in terms. There are only a few elements that the Board has jurisdiction to consider and that is health and safety, site and building design and environmental impact- that's our box. Can this site and this area accommodate this number of units and we are getting the information in increments, so don't get frustrated with this, we will get there.
- Judith Barrett continues and asks Mr. Galvin for an extension and a continuance date
- Bob Galvin proposes an extension to mid-February

- Judith Barrett states after the 9<sup>th</sup> our next meeting is the 23<sup>rd</sup> I am thinking perhaps to continue this to January 13<sup>th</sup> The architect Peer Review Consultant is available for that date and Pat, I would ask you to join if you're available
- Pat Brennan confirms
- Wayne Dennison states I would move to continue the public hearing to January 13, 2022 at 7:30pm
- Emmett Sheehan seconds
- All in favor

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

Moved by: WD

Seconded by: ES

Number in favor: 5

Number opposed: 0



## BOARD OF APPEALS — MINUTES

**Case No: 2021-31**

**Petitioner: Britton and Piper Hollis**

**Address: 10 Mullins Avenue**

**Date: December 2, 2021 Time: 7:30 p.m.**

**(Continued from October 28, 2021)**

**Members present:** Wayne Dennison, Judith Barrett, Kathleen Muncey, Emmett Sheehan & Tanya Trevisan

**Members Voting:** Wayne Dennison, Judith Barrett, Kathleen Muncey, Emmett Sheehan & Tanya Trevisan

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

- Wayne Dennison opens the public hearing and reads the public hearing notice.
- Freeman Boynton Jr. recuses from the case
- Wayne Dennison continues and states the documents included with the application and reads the case response memos from the Planning Board, the Conservation Commission, the Design Review Board and the Health Agent. Mr. Dennison states Lauren did we receive anything else?
- Lauren Haché states we did receive a letter in support from Abutters Suzanne and William Bennett of 20 Seabury Point Road.
- Wayne Dennison states ok, why doesn't the Applicant present first, but the property appears to be non-conforming due to lot size and coverage and you seem to be requesting relief pursuant to coverage
- Jessica Williams, the Agent for the Applicant, states yes, correct. Ms. Williams apologies, could Lauren share her screen and begins her presentation.
- Wayne Dennison states so ok, you want to add 200 square feet and it will go from 14.3% coverage to 16 point what
- Jessica Williams states 16.9%
- Wayne Dennison states and if one were to apply the Town's 3 percent rule, which does not seem to be in any of the materials we were provided, how would that come out
- Jessica Williams states that would come out to 18.3%, if you would like me to do any of the math, I am happy to provide that. So 20,000 minus 9530 (lot size) equals 10,470 sq. feet which you multiple by 0.03 (percent) and you an additional 314 square feet. Our request is 254 square feet adding to 1,362 existing square feet gives us 1,616 square feet or a coverage calculation of 16.9%
- Judith Barrett states she is impressed with the math calculations.
- Jessica Williams continues her presentation, stating the her Clients would like to add 254 square feet, which we are proposing to be on sono tubes which is permissible with the Board of Health. Jessica Williams states we are adding a mudroom, which is accessed from the garage and then



above the first floor mudroom, this will expand the existing space to create more space for the rooms above and add some much needed storage space.

- Wayne Dennison states did the Design Review Board see the cantilevered design
- Jessica Williams states yes, they did and continues the presentation, stating that is all I have
- Wayne Dennison states are there other people here to speak
- Ann Prince, 11 Mullins Avenue and 18 Mullins Avenue, I am not here to oppose the project, I just want to place some reality of the situation. The plans look nice, but the house is very out of scale in the neighborhood, as it currently exists. I think this addition will crowd the neighborhood and feel the height is out of scale. When the house was in construction, bulldozers started tearing up my abutting property to access this site and the only way we could stop them was to put in very large cedar posts. My concern is that during the project, they have no space to get to the back of their property due to their septic, so I do not want my property damaged by construction vehicles.
- Emmett Sheehan states is it the first house going up on the left
- Ann Prince states yes
- Wayne Dennison states are there other folks looking to speak
- Piper Hollis, property owner of 10 Mullins, states we do respect your concerns. We purchased this home as a spec house, so we were not owners or involved in the construction of this home and we are not using the same builder that was used in the original build. Furthermore, we respect all of our neighbors and Abutters.
- Jessica Williams states just an additional comment, since we are not putting in a full foundation, there won't be any heavy equipment going back there
- Wayne Dennison states we could not and would not authorize someone to go onto someone else's property
- Judith Barrett states we could put a condition in the permit that makes it clear that they cannot do that
- Emmett Sheehan states it is clear anyways, do we really have to condition it
- Tanya Trevisan states has there been any discussion on a license to access abutters property
- Jessica Williams states no, we don't propose that anyways. We won't have heavy equipment coming in as we are using sono tubes rather than a poured foundation.
- Kathleen Muncey states where is the driveway
- Jessica Williams shows the Board some photos
- Britton Hollis, the Applicant states there is a retaining wall between the properties now, so there is no issue with any damage to anyone property. Also, our lot is not the smallest on Mullins Avenue, I would argue that it may be one of the biggest.
- Jessica Williams shows some existing photos and where the driveway is on the property
- Kathleen Muncey states does the addition impede any views
- Jessica Williams states no. There aren't any views from where this property is, but there may be winter time views
- Wayne Dennison states would anyone like to speak
- Judith Barrett states are we creating a non-conformity that doesn't exist now
- Kathleen Muncey states well, that is why there is the 3% rule for these pre-existing, non-conforming lots
- Jessica Williams states 410.4 suggest that if you have a small lot...

- Judith Barrett states I stand corrected, I always have to work through this
- Kathleen Muncey states the problem is when you are already non-conforming and over the 15%
- Wayne Dennison states I do think we are creating a further non-conformity, but it is a permissible one
- Judith Barrett states I get it, the Bylaw and Chapter 40A (MGL) don't gel
- Wayne Dennison states would anyone like to make a motion
- Judith Barrett moves to close the public hearing
- Wayne Dennison seconds, any discussion, all in favor WD, KM, JB, ES, TT
- Emmett Sheehan states I think it is cut and dry
- Judith Barrett states I do have concerns with the Abutters concerns and I don't want to dismiss that
- Tanya Trevisan states she is not in opposition though
- Members agree
- Emmett Sheehan states what are you suggesting
- Kathleen Muncey states I am fine with the application
- Wayne Dennison states I am not opposed on a construction management condition
- Emmett Sheehan states how does that get enforced
- Judith Barrett states the Building Inspector
- Wayne Dennison moves to approve the special permit on the condition that there is no disturbance to the neighboring properties during the construction
- Emmett Sheehan seconds
- All in favor WD, JB, KM, ES, TT

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

Moved by: JB

Seconded by: WD

Number in favor: 5

Number opposed: 0

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

Moved by: WD

Seconded by: ES

Number in favor: 5

Number opposed: 0



## **BOARD OF APPEALS — MINUTES**

**Case No: 2021-32**

**Petitioner: The Parish of St. John the Evangelist**

**Address: 410 Washington Street**

**Date: December 2, 2021 Time: 7:30 p.m.**

**(Continued from October 28, 2021)**

**Members present:** Wayne Dennison, Judith Barrett, Kathleen Muncey, Emmett Sheehan, Freeman Boynton Jr. & Tanya Trevisan

**Members Voting:** Wayne Dennison, Judith Barrett, Kathleen Muncey, Emmett Sheehan & Tanya Trevisan

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

- Wayne Dennison opens the public hearing and reads the public hearing notice. Mr. Dennison states we have received an application, a plot plan, the existing sign permit and correspondence from the other town boards including the Board of Health, the Planning Board, the Design Review Board and states why don't we hear from the Applicant.
- Reverend Daniel Dice introduces himself and states good evening. Mr. Dice explains that there are four illuminated signs at Mayflower Church, Consider the Lillie's, The Winsor House and Waterfront Realty, so within less than 350 square feet there are four illuminated signs. I would also like to point out that we got our sign before Pilgrim (Church) did and they got exactly the same sign, I just think that is saying something. I am here to answer any questions you may have.
- Judith Barrett states I have one question, the Design Review Board is suggesting the lights be turned off after a certain time at night
- Reverend Dice states that makes sense to me, I would rather not have light pollution and I think it is annoying personally.
- Emmett Sheehan states generally we allow businesses to have lighting during hours of operation
- Judith Barrett states but a church is open 24 hours a day
- Wayne Dennison states that is a good question, what time do you lock the church everyday
- Reverend Dice states we never lock the church
- Wayne Dennison states so it's open all the time
- Reverend Dice states yes
- Kathleen Muncey states 9 or 10pm okay for lighting off
- Reverend Dice states sure; if you're going to mandate that, I would make it a different hour depending on the season
- Emmett Sheehan states right, like at Christmas with midnight Mass
- Wayne Dennison states are there other people among us who would like to speak

- Patrick Gagnon, 45 Amado Way, I would like to speak in support of this. In full disclosure, I am a member of the vestry at St. John's. The church is open 24 hours; when my brother died, I used that and I think that is an important service for the community. While I think it is a good idea to have a condition in the hours for the lighting, I would recommend that the mandate not be too strict. I went into the church around 10pm at night and I think it is a community service
- Wayne Dennison states in all candor, you are a member of the vestry and didn't need a sign to get in there
- Judith Barrett states in all fairness, when I had a family member die, I wanted to get in there at 1am
- Kathleen Muncey states it does mark the entry as well
- Patrick Gagnon states I was not a vestry member when my brother passed away, this was quite a number of years ago; I was a parishioner
- Tanya Trevisan states as a follow up to that point, Design Review Board meet with you or look at the plans. Are they aware that you are open 24 hours
- Reverend Dice states I am not sure what they are aware of; our staff person who was handling the application process is no longer with us. I do not want to make an excuse, but I was not at that meeting.
- Kathleen Muncey states what does Pilgrim Church do with their lighting
- Kathleen Muncey continues I don't think we can condition this
- Judith Barrett states my only question is does the building inspector have to enforce these things
- Emmett Sheehan agrees, they do have services that can be late
- Jim Wasielewski, the Building Commission, states according to the Zoning Bylaw, the signs can be illuminated during business hours and if they are open 24 hours a day, I don't know how you can restrict that
- Judith Barrett agrees
- Freeman Boynton Jr. states can you limit to just when there are services
- Kathleen Muncey states but it is open to the public
- Wayne Dennison states it seems reasonable to ask them to shut it off at 10pm
- Judith Barrett states I think it's wrong to put a time limit on
- Emmett Sheehan states Father Daniel already said he doesn't like the lights on late anyways
- Reverend Dice states my guess is that when we install the system we will install a timer so that no one will have to turn it on and off daily. So I imagine we will be adding a timer
- Wayne Dennison states does anyone else want to weigh in here at all...I move to close the public hearing
- Judith Barrett seconds
- All in favor WD, JB, KM, ES, FB
- Wayne Dennison states I move that we approve the special permit as requested
- Judith Barrett seconds
- All in favor WD, KM, JB, FB, ES

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

Moved by: WD

Seconded by: JB

Number in favor: 5

Number opposed: 0



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

Moved by: WD

Seconded by: JB

Number in favor: 5

Number opposed: 0

## BOARD OF APPEALS — MINUTES

**Case No: 2021-33**

**Petitioner: Rice Variance**

**Address: 140 Marshall Street**

**Date: December 2, 2021 Time: 7:30 p.m.**

**(Continued from October 28, 2021)**

**Members present:** Wayne Dennison, Judith Barrett, Kathleen Muncey, Emmett Sheehan & Tanya Trevisan

**Members Voting:** Wayne Dennison, Judith Barrett, Kathleen Muncey, Emmett Sheehan & Tanya Trevisan

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

- Wayne Dennison opens the public hearing and reads the public hearing notice, stating the Board received emails in support and reads the letters. Chairman Dennison continues to read case response from the Planning Board and the Design Review Board
- Freeman Boynton Jr. recuses
- Anthony Riley representing the Rice's seeking a variance from the zoning bylaw section having to do with the Flood Hazard Area Overlay District. Specifically what that requires is that any substantial improvement to a structure within that zone is to meet the minimum flood plain in this area, which is 11 feet. The cottage as it exists now is at 10.64 feet, leaving a 0.36 foot degradation from the bylaw. So we are short of the requirement by 4 ½ inches.
- Wayne Dennison states can I just ask, why can't you raise this thing 4 ½ inches into the zone.
- Anthony Riley States the cottage is so old and in a dilapidated state that taking everything out and putting in brand new pilings would be a major project. The costs would be exorbitant. The variance standard in this Bylaw is different and I think we have a good argument in 402.9 for our cause element. This has been in this spot since the 1950's. The Rice's plan to use this as an auxiliary home office.
- Wayne Dennison states does the Board have questions
- Emmett Sheehan states it's a neat little place, I grew up out there
- Wayne Dennison states I do have questions, around 402.1 #8 a variance to the State Building Code and it states that the Town of Duxbury will request from the State Building Code Board of Appeals a written and or audible copy of the hearing relatable to the variance. So don't you have to start with the State Building Code Board of Appeals before you come here
- Anthony Riley states we didn't do that and I don't know the answer to that
- Judith Barrett states maybe Jim Wasielewski has some input
- Jim Wasielewski states there are a few other things that have not been mentioned here, this project started and was underway before any of this discussion happened and a stop work order



was issued. In the findings in the permit process, we determined it was close to the flood zone. I don't have the ability to reduce the requirements of the State Building Code.

- Kathleen Muncey states what was the cease and desist for
- Jim Wasielewski states they began construction, tore the roof off it, extended the wall height all without a permit but that being said it is a cute project and they haven't done any work since then
- Kathleen Muncey states what was the apparent use of that before
- Anthony Riley states a Lawyer lived on the property and used it as a home office years ago
- Kathleen Muncey states was there always a bathroom and kitchen in it
- Anthony Riley states yes it what is show in there, it hasn't been improved
- Kathleen Muncey states ok so what is existing
- Bill Rice states right now, as we bought it, there was a full bath, running water, shower and basic kitchen and we are proposing to go right back to that
- Wayne Dennison states we can't act on this, if you want to continue this until you go before the State to get the variance, we can do that, how long do you think you need
- Anthony Riley states I couldn't guess
- Wayne Dennison states why don't we go out two months
- Wayne Dennison states I move to continue this for two months
- Judith Barrett seconds
- Lauren Haché states February 10, 2022
- All in favor WD, KM, JB, ES, FB TT

**Motion: It was moved, seconded and unanimously voted to continue the public hearing to February 10, 2022 at 7:30 p.m.**

Moved by: WD

Seconded by: JB

Number in favor: 5

Number opposed: 0