

TOWN OF DUXBURY

BOARD OF APPEALS

DUXBURY BOARD OF APPEALS

MEETING MINUTES

March 10, 2022 @ 7:30 p.m.

TOWN CLERK
2022 APR 15 AM 8:09
DUXBURY, MASS.

ATTENDANCE: Kathleen Muncey (CPT), Judith Barrett, Emmett Sheehan, Freeman Boynton Jr., Borys Gojnycz and Tanya Trevisan

Other persons present at the hearing: James Wasielewski, Building Commissioner, and Lauren Haché, Administrative Assistant

CALL TO ORDER: Kathleen Muncey, Chair Pro Tem, called the meeting to order and reads the Governor's Preamble: Pursuant to Governor Baker's Chapter 20 of the Acts of 2021 dated June 16, 2021, An Act of Extending Certain COVID-19 Measures Adopted During the State of Emergency regarding suspending certain provisions of the Open Meeting Law, , G.L. c. 30A, §18, 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 for information about Duxbury programming including streaming on Duxbury You Tube, to watch replays and Video on Demand.

ZBA Case #2021-15, McKeag, 39 Shipyard Lane (CONT'D): *The Board voted unanimously (3-0) to continue the public hearing to March 31, 2022 at 5:00 p.m.*

ZBA Case #2021-26, Bayside Marine Corp., 433-447 Washington Street (CONT'D): *The Board voted unanimously (5-0) to grant the Applicants request to withdraw the application, without prejudice.*

ZBA Case #2022-01, Shoham, 39 Shipyard Lane APPEAL (CONT'D): *The Board voted unanimously (3-0) to continue the public hearing to March 31, 2022 at 5:00 p.m.*

ZBA Case #2022-02, Weintraub, 87 Gurnet Road: *The Board voted unanimously (5-0) to continue the public hearing to April 14, 2022 at 7:30 p.m.*

ZBA Case #2022-03, Phinney, 254 Washington Street: *The Board voted unanimously (5-0) to approve the special permit.*

ZBA Case #2022-04, Daniels, 2 Shantum Lane, VARIANCE: *The Board voted unanimously (5-0) to deny the variance.*

Kathleen Muncey makes a motion to close the public hearing. Emmett Sheehan seconds (5-0)

BOARD OF APPEALS MINUTES

Case No: 2022-03

Petitioner: Susan Phinney

Address: 254 Washington Street

Date: March 10, 2022 Time: 7:30 p.m.

Members present: Kathleen Muncey, Emmett Sheehan, Freeman Boynton Jr., Borys Gojnycz & Tanya Trevisan

Members Voting: Kathleen Muncey (CPT), Freeman Boynton Jr., Emmett Sheehan, Tanya Trevisan & Borys Gojnycz

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

- Kathleen Muncey opens the public hearing and states we have received a complete application, floor plans and a site plan and some case responses from the Board of Health, the Planning Board, The Design Review Board and the Conservation Commission. Ms. Muncey also read letters in support from neighbors Ellen Mueller, Patricia Cook of 252 Washington Street, Sydney Rose at 236 Washington Street, Mary Steinkey and Charles and Holly Wielbrenner of 264 Washington Street.
- Jessica Williams, the Agent for the Applicant, shares their screen and explains the project proposed stating there are two potential options, one on each side of the dwelling. The small addition will add a needed mudroom onto the dwelling. We are proposing to extend the pre-existing, non-conforming wall, we are not creating a new non-conformity. This would be a two-story addition, which would allow for a little extra square footage. I did follow the DRB suggestions with reference to the façade and shares a three dimension plan.
- Kathleen Muncey states so if you build it which option is it
- Jessica Williams states option C, building on the North side first and second floor
- Kathleen Muncey states so, what will the new coverage calculation be after this additions
- Jessica Williams states it will be under 15%, The surveyor actually added all of the proposed additions on both sides of the dwelling and it stay came in under 15%
- Kathleen Muncey states ok, so you could still add on to the other side, with enough of a setback that it can be done by right
- Jessica Williams states yes, we could, but don't want to due to the way it would block some of the natural light
- Kathleen Muncey asks the Board for questions
- Tanya Trevisan states I just would like to say that I really like the design
- Kathleen Muncey agrees the volume is fine and it evens it out
- Borys Gojnycz states where does the staircase go in terms of the non-conformity

- Jessica Williams shares the plan and shows that the staircase is fine and doesn't encroach the setback
- James Wasielewski states the stairs are till in the setback but they don't project any further than what is existing correct
- Jessica Williams states that's correct, they do not increase the non-conformity.
- Emmett Sheehan states thanks for clearing that up Jim.
- Kathleen Muncey states any other questions or comments
- Freeman Boynton Jr states was the Design Review Board in favor of option C
- Kathleen Muncey states their letter states they liked the project
- Jessica Williams states I did clarify to the DRB that we are only looking for relief on what is before you tonight, including the dormer on the second door that was suggested by Nancy with the DRB
- Freeman Boynton Jr. states all of the neighbors seem to be in support
- Emmett Sheehan states was this land condoized at some point.
- Kathleen Muncey moves close the public hearing
- Tanya Trevisan seconds
- Kathleen Muncey states this was a very complete package
- Borys Gojnycz states if they go forward with something in the future should we restrict
- Kathleen Muncey states I don't believe so
- James Wasielewski states the work on the other side is not in the setback and is under the 15% so they would be able to do that by right
- Kathleen Mucey moves to approve the petition as presented with option C, first and second floor addition on the North side as presented, it being not substantially more detrimental to the neighborhood
- Emmett Sheehan seconds
- All in favor KM, TT, FB, ES, BG

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

Moved by: KM

Seconded by: TT

Number in favor: 5

Number opposed: 0

Motion: It was moved, seconded and voted to grant the special permit as proposed.

Moved by: KM

Seconded by: ES

Number in favor: 5

Number opposed: 0

BOARD OF APPEALS MINUTES

Case No: 2022-04

Petitioner: Robert and Deborah Daniels

Address: 2 Shantum Lane

Date: March 10, 2022 Time: 7:30 p.m.

Members present: Kathleen Muncey (CPT), Judith Barrett, Emmett Sheehan, Freeman Boynton Jr., Borys Gojnycz & Tanya Trevisan

Members Voting: Kathleen Muncey (CPT), Freeman Boynton Jr., Emmett Sheehan, Tanya Trevisan & Borys Gojnycz

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

- Kathleen Muncey opens the public hearing and reads the public hearing notice into the record. We have received an application, site plans, and Kathleen Muncey states the application states the hardship they are statin is that the pool would not be able to be built for years of family enjoyment. Ms. Muncey reads the case responses from the Board of Health, the Planning Board, Conservation Commission and the Design Review Board. There are also letters from Tom Campbell of 3 Shantum Lane and Christine Saffra of 1 Shantum Lane, both in full support.
- Bob Daniels introduces himself as the home owner and explains that Shantum Lane was established back in 2013 and is a private way. It is owned by the three homeowners of Shantum Lane and then Mr. Daniels asks Lauren to share the screen and explains the topography. Stating Shantum Lane is an asphalt lane that is a dead end that ends at my driveway and then there is a stone path that continues to Phelps Lane. Mr. Daniels explains that this cul de sac is on paper only, this turnaround does not exist today. Mr. Daniles notes 7.3.10 in the Bylaw, it states 3 homes or less, this circle cul de sac must be put on the plot plan, but it doesn't have to be built and a hammerhead will suffice. Basically the Town and the Builder agreed that the cul de sac doesn't need to be built apparently. The Town and Planning Board had not interest in buuilding this and preferred to keep this land undistrubed.
- Kathleen Muncey states I do have some questions. The basis for your application is for a variance that are very rarely granted and there are strict criteria and you claim the hardship
- Judith Barrett states you have to have the topography conditions listed in the application before you can go for the hardship; I don't eben think we can vote on this
- Kathleen Muncey states right, I think you are before the wrong Board and I think you would have a remedy if you and your neighbors would go before the Planning Board and show the, the hammerhead, where all three residences agree. Is there any way you can reconfigure the pool, make is smaller

- Bob Daniels states we need 12.5 feet from the house, but then behind the house there is only 10 feet of flat land and then there is a hill that goes up to Miles Standish monument. We did try look for alternatives. Basically the hill creates maintenance issues. I know my neighbors would be in agreement
- Kathleen Muncey states you would want to meet with the Town Planner and talk about revising your subdivision plan. It's a large undertaking, but an option
- Emmett Sheehan states is there another lot down on the right that a house can be built on
- Bob Daniels states no that is Mr. Campbell's at Shantum Lane #3
- Jim Wasielewski states Bo can you speak to what your Pool installer said about putting the pool in the back
- Bob Daniels states right, the hill could create structural damage the closer to the woods and hill and that hill will have water coming down the hill
- Kathleen Muncey states what is a normal pool size
- Bob Daniels states 18 x 40 or 18 x 36 but they can go as small as 18 x 32 but that is a more shallow pools We previously lived on Eli's Lane and Marshall Street and put pools in there.
- Kathleen Muncey states unfortunately it is a real line and it is deeded and your neighbors have rights. You would have to talk to the Planning Board and your neighbors would have to be on Board. You would ask for a waiver to reduce it. Any questions from the Board
- Freeman Boynton Jr. states why not rotate it ninety degrees and just slid it 15 feet to the west, would it fit
- Kathleen Muncey states maybe slightly smaller
- Freeman Boynton Jr states I don't think we can begin to entertain any of the doors
- Judith Barrett states no, those conditions don't exist
- Kathleen Muncey states any one here from the public
- Tom Campbell, Bob's direct neighbor, I am in full agreement with Bob.
- Kathleen Muncey states maybe the Planning Board will entertain this
- Amy MacNab states he reason the cul de sac is designed that way is to establish the frontage for each of the lots. That is the legal roadway, there is no way around that. The reason why the asphalt is not in place is because less disturbance is best
- Bob Daniels states the southern most edge of my property it is over feet of frontage
- Amy MacNab states it is due to allow for police and fire trucks can turn around, so that is why the cul de sac is there.
- Kathleen Muncey states I stand corrected
- Jim Wasielewski states well they don't consider a private driveway as a hammerhead due to it being a private driveway. You may want to talk to the Planning Board about an actual T to be put in
- Bob Daniels states are there dimension requirements

- Jim Wasielewski states I don't know that
- Kathleen Muncey moves to close the public hearing
- Freeman Boynton Jr states I don't think they need to continue, if they can reconfigure this they won't need out relief
- Kathleen Muncey states the application itself doesn't allow us to rule on this, we don't have the information to make the findings under the statute
- Kathleen Muncey makes a motion to deny the Variance because it doesn't meet the criteria of a variance in the Bylaw.
- Judith Barrett seconds
- All in favor KM, JB, BG, ES, FB

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

Moved by: KM

Seconded by: FB

Number in favor: 5

Number opposed: 0

Motion: It was moved, seconded and voted to deny the Variance.

Moved by: KM

Seconded by: JB

Number in favor: 5

Number opposed: 0