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TOWN OF DUXBURY



BOARD OF APPEALS

DUXBURY BOARD OF APPEALS

MEETING MINUTES

May 9, 2022 @ 7:30 p.m.

ATTENDANCE: Judith Barrett (Chair Pro Tem), Kathleen Muncey, Freeman Boynton Jr., Philip Thorn, Borys Gojnycz and Tanya Trevisan

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

CALL TO ORDER: Judith Barrett 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 #2021-06, Harlow Brook LLC, The Village at Harlow Brook, 766, 782 and 0 Temple Street (CONT'D): *The Board voted unanimously (5-0) to continue the public hearing to June 8, 2022 at 5:00 p.m.*

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

BOARD OF APPEALS MINUTES

Case No: 2021-06

Petitioner: The Village at Harlow Brook

Address: 766, 782 and 0 Temple Street

Date: May 9, 2022 at 7:30 p.m.

(Continued from March 11, 2021, May 13, 2021, June 10, 2021, June 24, 2021, September 23, 2021, October 28, 2021, December 2, 2021, January 13, 2022, February 24, 2022 and April 28, 2022)

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

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

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

- Judith Barrett, the Chair Pro Tem, re-opens the public hearing and lists off the new materials received since the last meeting and names the voting members for this case in Wayne Dennison's absence. Those voting are Judi Barrett, Kathy Muncey, Freeman Boynton Jr., Borys Gojnycz and Phil Thorn. Judith Barrett reads an email from Diane Bartlett asking about clean fill being brought in to the project and then an email from Pat Brennan, the Amory Engineers stating that he never witnessed any ledge in any of the test pits he witnessed. I also emailed the Fire Department Captain Monahan and asked for some call volume numbers for home ownership developments – Merry Village, Duxbury Woods, Duxbury Farms and The Reserve and Captain Monahan stated that they don't have any issues with those developments. Ms. Barrett continues and reads a memo from Attorney Dennis Murphy regarding nitrogen load and advanced treatment. A memo from Scott Horsley memo is read and then a revised mounding analysis from South Shore Survey.
- Judith Barrett asks the Applicants Attorney if they wish to add anything to the record or if they are prepared to respond to Mr. Horsley's memo.
- Attorney Bob Galvin states we would like to go forward and believes that the Board has all of the information to make an informed decision
- Mounir Tayara states thank you, I would like to thank Mr. Boehmer and Tanya's time for the work they put in with the working session. Mr. Tayara summarizes the suggestions made from that working session. A planting strip in the double wide driveways and double doors rather than single doors on those units and a school bus area for the development as well.
- Attorney Galvin speaks to conditions for truck travel with the fill of the project and that a sight triangle was added to the plan
- Judith Barrett states Tanya did you want to add anything from your meeting

- Tanya states that Cliff did articulate well what was discussed relative to the working group. I do want to comment on Attorney Galvin's statement about the water quality letter and I don't think that it is really fair of them to comment about submitting things at the 11th hour because the Applicants did do that at the last hearing.
- Judith Barrett states this does put us in a difficult spot with closing this hearing, which brings me to my next questions, how would you feel about drafting a decision, which would require us to keep the hearing open
- Attorney Galvin states while Mr. Horsley presents, I will have a discussion with Mr. Tayara offline
- Judith Barrett agrees
- Attorney Murphy states I would like to introduce Scott Horsley and a lot of the issues have to do with mounding and the other is nitrogen loading and I would like to state for the record that I submitted a letter in March raising this issue, so it is not the eleventh hour
- Scott Horsley shares his screen and presents to the Board.
- Pat Brennan, Amory Engineers speaks to the mounding and states that the Applicants did re-calculate those. He states he is comfortable with what they have. The Nitrogen is more of a concern for me
- Judith Barrett states so if the Applicant is willing to provide the advanced treatment, they won't need a waiver from local Board of Health regulations
- Mounir Tayara states we did not say we would comply with 5, we will apply a system to lower the number but we never said we would comply
- Kathleen Muncey states I believe Bob Galvin stated it would comply
- Judith Barrett states how can we write a waiver without numbers
- Mounir Tayara states below the state standard.
- Judith Barrett states so, are you looking for an opportunity to respond to Mr. Horsley's memo?
- Mounir Tayara and Attorney Galvin both states yes
- Judith Barrett asks what kind of extension are you looking for
- Mounir Tayara states 30 days would be good and asks Mark Casey
- Mark Casey states yes, that is good, we need 2 weeks
- Kathleen Muncey states for clarification, when Mr. Galvin stated you would meet all State standards and Mr. Horsley's slides show the standard is 5, is this true
- Mounir Tayara states no, we do not believe we can achieve this
- Scott Horsley states I understand the confusion because there is a drinking water standard of 10 mg/L. The 10 mg/L standard is for water suppliers, not for developers. We are talking about Nitrogen loading standards and those are at 5 mg/L and the Town and State level are all 5. So, EPA realized we can't permit development at 9. Something because they are going to lose a lot of the water supply. The Town standard is 5.
- Judith Barrett states so the waiver regarding this is whether or not it includes the APOD – the local standard is only upland. Title 5 includes wetlands too?
- Scott Horsley states so the way this works is you add the amount of wastewater and other sources like fertilizers and such and then you dilute that with the amount of

recharge on the site, recharge is the amount of precipitation on the site mixed with the ground water and you end up with a concentration – a mass and a volume. That mass has to work out to 5 mg/L. The question is where does recharge come from, it doesn't come from wetlands-wetlands have an evaporation rate that equals annual precipitation-there is no net recharge on wetlands, so they are not counted in that recharge calculation.

- Kathleen Muncey states I have a question about the amount of fill, there has been a lot of discussion about the amount of fill. How does that effect these numbers? Has this amount of fill been calculated in these numbers, it must have and the type of fill and has it been tested
- Scott Horsley states fill can affect the hydrology of the site or will, although the groundwater mounding is often controlled by the materials already there and that will be the controlling factor. There are two terms here, infiltration which is the amount of water that soaks into the ground when it rains. Recharge is the amount of infiltration that makes it to the water table.
- Kathleen Muncey states as a follow up, at the last meeting a neighbor spoke about how wet their yard is all summer long. How much fill are we talking about 2 feet, 10 feet and how does that effect the neighbor
- Pat Brennan states so the fill will affect the neighbors depending on if the water flows from the neighbor's yard across this property to the wetlands. It shouldn't, they designed that the flow won't increase the neighbors and the fill shouldn't affect that
- Phil Thorn states if you add fill to the subject site and it raises above the surrounding properties, wouldn't this increase the flow off this site
- Pat Brennan states they have swails designed to collect the water away from the adjacent property and they designed the proposed grading to have the flow to the wetlands. Flow will not be increased to the Abutters, they are not allowed to
- Kathleen Muncey states how will this make the height of the site look after the fill
- Pat Brennan states it will vary, but worst case in some areas will be roughly 6 feet
- Freeman Boynton Jr. states I am still confused about the 5 and 10
- Bob Galvin states we have to meet the State standard, we don't have a choice. I would feel better letting out hydrogeologist to respond at the next hearing.
- Judith Barrett states let get the extension into place before we take public comment. Thirty days, what is acceptable
- Bob Galvin states around June 6th is fine, we won't be unreasonable
- Judith Barrett states June 8th?
- The Board Members and Applicants agree to continue the meeting to Wednesday, June 8th at 5:00pm.
- Judith Barrett states I am going to put a deadline limit of submittals to one week before June 8th to June 1st so that everyone has time to review.
- Bob Galvin states that he will furnish an extension to the 180 days as well
- Judith Barrett opens the meeting to the public
- Rob Melton, 732 Temple Street, I am a direct Abutter. The grade on average will raise 6 feet, is there a range on the low and high

- Kathleen Muncey states I think we heard 6 feet at the worst/highest
- Rob Melton continues and states that the water quality is teetering on what is acceptable. Also, how do we know if the fill isn't contaminated
- Pat Brennan states you can condition this so that any fill brought into the site they have to provide documentation on where it came from and whether it passed testing
- Kathleen Muncey states who would review the certification
- Pat Brennan states either to the Board or Jim Wasielewski and then a Peer Engineer would review
- Rob Levitt, 724 Temple Street states I want to re-affirm what Rob Melton was saying regarding the groundwater
- Adam Schwebach, 756 Temple Street, I have a few questions regarding the mounding analysis and how it will affect my property-will water push to the neighboring properties
- Scott Horsley explains the groundwater mounding and how things get assessed and then you can evaluate impacts.
- Pat Brennan states the 83 bedrooms is a Title 5 standard, 440 gallons per day per 40,000 sq. ft. or acre.
- Discussions about the height of the site and the elevation with a model
- Alia Samad-Salameh, 16 Laurel Street, asks about the construction management plan for the fill construction. When will this start and How long will this last? I want to know if I can't get to my home
- Judith Barrett states typically the comprehensive permit will provide details and conditions around this, but there is a much more detailed process after the hearings and decisions are done.
- Dennis Murphy states I just have two items to discuss next time, one in Horsley's letter is a mass balance analysis and then ambient levels of calculating Nitrogen especially with route 3 abutting this.
- Judith Barrett states it is my understanding that we are continuing this to June 8, 2022 at 5pm
- Kathleen Muncey moves the motion
- Freeman Boynton Jr seconds
- All in favor JB, KM, PT, FB. BG

Motion: It was moved, seconded and unanimously voted to continue the public hearing to June 8, 2022

Moved by: KM

Seconded by: FB

Number in favor: 5

Number opposed: 0