

# REQUEST FOR REVIEW

Case No: 2024-11  
Petitioner: Kristina and Brian Barry  
C/O: Jay Herzog, Herzog Architecture  
Address: 33 Grandview Avenue  
Parcel #: 083-955-002

- PLANNING BOARD
- BOARD OF HEALTH
- CONSERVATION COMMISSION
- DESIGN REVIEW BOARD
- WATER DEPARTMENT
- DUXBURY BAY MANAGEMENT COMMISSION
- HIGHWAY DEPARTMENT

Date form was delivered: 04/23/2024

DATE REVIEW REPORT DUE TO BOARD OF APPEALS (906.4-WITHIN 35 DAYS) - Written comments and recommendations should be received within 35 days or there shall be deemed no opposition or desire to comment. **DUE DATE TO ZBA: 5/22/2024 or ASAP**

**PUBLIC HEARING SCHEDULED FOR: May 23, 2024**

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<input type="checkbox"/>	RESIDENTIAL CLUSTER DEVELOPMENT
<input type="checkbox"/>	PLANNED DEVELOPMENT
<input checked="" type="checkbox"/>	SPECIAL PERMIT
<input type="checkbox"/>	VARIANCE
<input type="checkbox"/>	APPEAL

**BOARD OF APPEALS REQUESTS:**

<input type="checkbox"/>	PRELIMINARY QUALIFICATION/SITE ANALYSIS REVIEW	803.5
<input checked="" type="checkbox"/>	SPECIAL PERMIT COMMENTS & RECS.	906.2
<input type="checkbox"/>	DEVELOPMENT APPLICATION REVIEW	806.2
<input type="checkbox"/>	SITE PLAN APPROVAL	602
<input type="checkbox"/>	VARIANCE – COMMENTS AND RECOMMENDATIONS	
<input type="checkbox"/>	APPEAL OF BUILDING INSPECTOR'S DETERMINATION- COMMENTS AND RECOMMENDATIONS	



TOWN CLERK

2024 APR 22 PM 2:45

DUXBURY, MASS.

# TOWN OF DUXBURY



## BOARD OF APPEALS

### NOTICE OF PUBLIC HEARING

The Board of Appeals will hold a public hearing in the Mural Room, 878 Tremont Street and via zoom on Thursday, May 23, 2024 at 7:30 p.m. to consider the application of Kristina and Brian Barry c/o Jay Herzog, Herzog Architecture for a Special Permit under Article(s) 400 and 900, Sections 401.4, 410.4 and 906.2 of the Duxbury Protective Bylaw. The property is located at 33 Grandview Avenue, Parcel No. 083-955-002 of the Duxbury Assessors Map, consisting of 0.75 acres in the Residential Compatibility District (RC) and owned by Kristina and Brian Barry. The Applicants propose to raze and rebuild a pre-existing, non-conforming deck attached to the dwelling, where the proposed deck is 38.6 feet from the centerline of the way. A special permit is required. The application may be viewed on the Town's website [www.town.Duxbury.MA.US](http://www.town.Duxbury.MA.US) under the Zoning Board of Appeals page or in the Municipal Services Department. Any individual with a disability may request accommodation in order to participate in the public hearing and may request the application and any accompanying materials in an accessible format. Such requests should be made at least three business days in advance by contacting the Municipal Services Department.

Pursuant to Chapter 2 of the Acts of 2023, 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. Additionally, the meeting will be broadcast live, in real time, via the Duxbury Government Access Channels – Verizon 39 or Comcast 9. 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.

#### REMOTE MEETING ACCESS INSTRUCTIONS

<https://pactv.zoom.us/j/93616327348?pwd=RHZYNIVLTndTdVZqaWIPb25hZlVLU09>

Zoom Meeting ID: 936 1632 7348 Zoom Password: 943482

Zoom call in access: 1 929 205 6099 US

Adv.: 5/8 & 5/15/2024

Case #2024-11

*Wayne Dennison*

Chair, Board of Appeals





The Town of Duxbury  
 878 Tremont Street  
 Duxbury, MA 02332  
 Phone: (781) 934-1100 • Fax: (781) 934-1118

TOWN CLERK'S STAMP:  
 TOWN CLERK  
 2024 APR 22 PM 2:45  
 DUXBURY, MASS.

**APPLICATION - DUXBURY ZONING BOARD OF APPEALS**

**APPLICATION INFORMATION**

This Application is for:

- Special Permit       Appeal       Variance       Comprehensive Permit

Project Name: Barry residence deck re-build & expansion

Project Type: Exterior deck

Location (Street Address): 33 Grandview ave.

Assessor's Map/Block/Lot Number (s): 083/ 955/ 002

Applicant: Jay Herzog, Herzog Architecture

Address: 575 South River Street Marshfield, MA 02050

Telephone: 508 654 0977

Fax:

Email: Jay@Herzogarchitecture.com

Property Owner: Kristina & Brian Barry

Address: 33 Grandview Avenue Duxbury MA 02332

Telephone:

Fax:

Email: kts301@aol.com

Briefly describe and justify your special permit or variance request, or the basis for your appeal:

Demolition of existing deck and rebuilding / expanding in existing location

**SITE INFORMATION**

Total Area (Sq. Ft.): 32,670 s.f.

Lot Frontage: 347

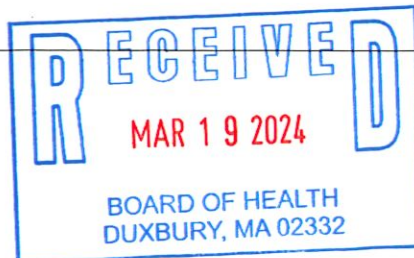
Total Upland Area (Sq. Ft.):

Zoning District(s):

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> RC: Residential Compatibility | <input type="checkbox"/> PD3: Planned Development District 3       | <input type="checkbox"/> POLOD: Publicly Owned Land Overlay District |
| <input type="checkbox"/> NB1: Neighborhood Business District 1    | <input type="checkbox"/> FHAOD: Flood Hazard Area Overlay District | <input type="checkbox"/> DPD: Dunes Protection District              |
| <input type="checkbox"/> NB2: Neighborhood Business District 2    | <input type="checkbox"/> WPD: Wetlands Protection District         | <input type="checkbox"/> WSOD: Waterfront Scenic Overlay District    |
| <input type="checkbox"/> PD1: Planned Development District 1      | <input type="checkbox"/> APOD: Aquifer Protection Overlay District |  |
| <input type="checkbox"/> PD2: Planned Development District 2      |  |  |

Identify *all* sections of the Duxbury Protective Bylaw that apply to this Application:

Section 410.4-Front setback non-conformity



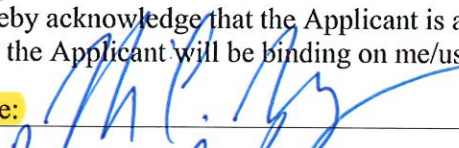
Existing Use(s) of the Property:  
Single family residence

**APPLICANT AND OWNER CERTIFICATIONS**

The undersigned hereby certifies that he/she has read and examined this Application, including all attachments hereto, and that the proposed project is accurately represented in the statements made in this Application. The undersigned also certifies that applications have been filed with the Planning Board, Conservation Commission, and Board of Health, as appropriate, and hereby requests a hearing before the Zoning Board of Appeals with reference to this Application.

**Property Owner**

I/we hereby acknowledge that the Applicant is authorized to act on my/our behalf and that any and all representations made by the Applicant will be binding on me/us as Owners of the property.

Signature:  Date: March 4, 2024

Print: Brian C. Barry

Signature:  Date: 03-04-2024

Print: Kristina Barry

Applicant/Appellant  
Signature:  Date: 03/04/24

Print: Jay Herzog

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print: \_\_\_\_\_

Applicant is:  Owner  Tenant  Agent/Attorney  Purchaser  Appellant

**Building Inspector Review**

This completed Application has been reviewed by the Building Inspector prior to filing with the Town Clerk.

Signature of Building Inspector: 

Date of Review: 3/26/2024

**Supplemental Application Requirements**

The Application must include one or more of the following supplemental pages, as applicable:

- A. Section 906.2 Findings (Required for All Special Permit Applications)
- B. Application to Extend or Alter a Non-Conforming Single-Family or Two-Family Dwelling
- C. Application to Extend or Alter Other Use or Structure
- D. Application for a Special Permit in the NB-1 or NB-2 District
- E. Application for a Residential Pier
- F. Application for a Special Permit in the WPOD
- G. Application for Variance
- H. Appeal of Building Inspector/Zoning Enforcement Officer Decision
- I. Application for a Comprehensive Permit under G.L. c. 40B



**SUPPLEMENTAL APPLICATION REQUIREMENTS**

**A. Section 906.2 Findings; Required for All Special Permit Applications.**

For each of the following special permit granting criteria, summarize the proposed project's benefits to the Town and explain how they will outweigh any adverse impacts on the Town or the vicinity of the site. If a given criterion does not apply to the Application or if there will be no adverse impact, briefly explain why. Attach additional sheets if necessary.

- 1) Suitability of the proposed location for this proposal, taking the following into consideration:
  - a) Nearby land uses, and whether they would be supported by or damaged by having the proposed use nearby.
  - b) Uses of the site which would be displaced by or preempted by this use.
  - c) Adequacy of roads, water, drainage and other public facilities serving the location.
  - d) Whether the site is more sensitive than are most similarly zoned sites to environmental damage from the proposal such as: erosion, siltation, potential groundwater or surface water contamination, especially if affecting public or private water supplies, habitat disturbance or loss of valuable natural vegetation.
  - e) Contribution to cumulative impact upon municipal water supplies, including consideration of nitrate-nitrogen loading, if within a defined Aquifer Protection Overlay District.

Applicant's Response:

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- 2) Activity type, mix and intensity, taking the following into consideration:
  - a) Whether the proposal contributes to the diversity of services available locally;
  - b) Seasonal consequences, including addition to peak period congestion;
  - c) Service to local, in preference to regional, markets;
  - d) For business developments, likelihood of employment opportunities being created for residents, and the quality of those opportunities; and
  - e) For residential developments, how substantially, if at all, the proposal contributes to housing diversity.

Applicant's Response:

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- 3) Building and site design, including consideration of the following:
- a) Whether scenic views from public ways and developed properties have been considerately treated;
  - b) Whether compatibility with neighborhood character has been considerately treated;
  - c) Whether reasonable efforts have been made to minimize visibility of parking and service areas from public streets;
  - d) Whether any traditional public access to or along shoreline has been maintained; and
  - e) Compliance with the criteria of Section 424.4 and/or Section 615 under Site Plan Approval.
  - f) Compliance with Section 404.20, "Determination of Suitability of Piers" and Section 404.50, "Waterfront Scenic Area Overlay District," if applicable.

Applicant's Response:

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**By Applicant/Appellant**

Signature:

Date:

Print:

**DUXBURY BOARD OF APPEALS  
SUPPLEMENTAL APPLICATION REQUIREMENTS**

**B. Application to Extend or Alter a Non-Conforming Single-Family or Two-Family Dwelling**

1) What is the nature of the existing nonconformity(ies)? Check *all* that apply.

- |  |  |
|--|--|
| <input type="checkbox"/> Insufficient lot area                         | <input type="checkbox"/> Insufficient lot frontage                               |
| <input type="checkbox"/> Encroachment on front, side, or rear setbacks | <input type="checkbox"/> Existing height exceeds maximum height limit            |
| <input type="checkbox"/> Excess <i>lot</i> coverage (RC limit: 15%)    | <input type="checkbox"/> Excess <i>site</i> coverage (NB-1 and NB-2 limit: 50 %) |
| <input type="checkbox"/> Other (list): _____                           |  |

2) When was the existing dwelling (or accessory structure) constructed? \_\_\_\_\_  
(Attach evidence, e.g., historic photographs, assessor's record, building permit records, other)

3) When was it most recently altered or extended? \_\_\_\_\_

4) Have any zoning variances been granted for the subject property?  Yes  No If yes, when? \_\_\_\_\_

5) Does the proposed project involve demolition of an existing structure?  Yes  No

6) If yes, and if the building was constructed 75 years or more before the date of this application, has the Historical Commission held a public hearing and made a demolition delay determination under Section 609?  
 Yes  No  Not Applicable

7) Describe the existing and proposed conditions on the lot. The following calculations should be prepared by the engineer or architect of record and must be presented here OR on the site plan.

	Total (All Structures)			Nonconforming Only		
	Existing	Proposed	Percent Change	Existing	Proposed	Percent Change
Gross Floor Area (sq. ft.)						
Volume (cu. ft.)						
Lot or Site Coverage Area (sq. ft.)						
Percent						
Building Height						
Setbacks:						
Front:						
Side:						
Side:						
Rear:						

8) Does your proposed project:

- |                          |                          |  |
|--------------------------|--------------------------|--|
| Yes                      | No                       |  |
| <input type="checkbox"/> | <input type="checkbox"/> | Conform to the requirements of the Duxbury Zoning Bylaw? |
| <input type="checkbox"/> | <input type="checkbox"/> | Increase any existing non-conformity?                    |
| <input type="checkbox"/> | <input type="checkbox"/> | Create any new non-conformity?                           |

9) The Board of Appeals is required to make certain findings under Section 401.2(3)(a). To assist the Board in this process, please respond to each of the following questions.

a) Will the proposed project substantially increase the nonconforming nature of the existing structure or lot? Why, or why not?

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b) Has the project been designed to ensure that the proposed changes will not be more detrimental than the existing nonconforming structure to the neighborhood? If so, how?

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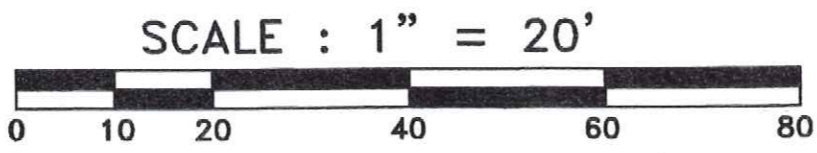
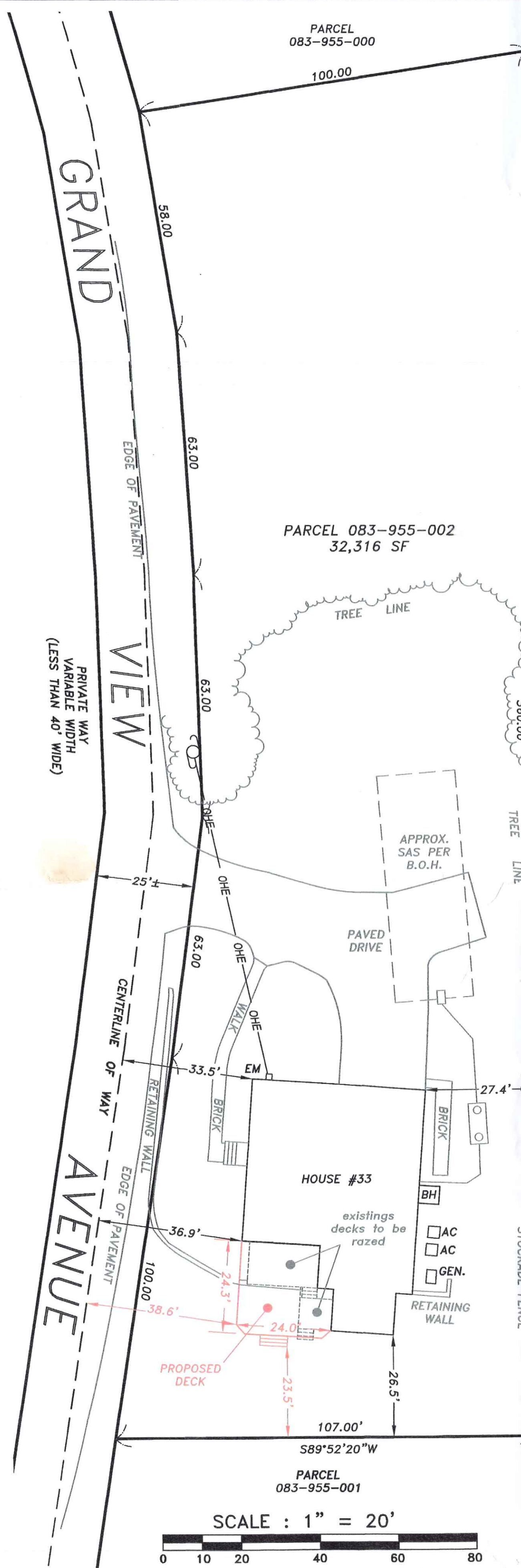
**By Applicant/Appellant**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print: \_\_\_\_\_



Job No.: 9423



LOCUS MAP

**DEED REFERENCE**

PLYMOUTH COUNTY  
DEED BOOK 55232 PAGE 147

**PLAN REFERENCE**

PLYMOUTH COUNTY  
PLAN BOOK 9 PAGE 47

**ZONING**

RESIDENTIAL COMPATIBILITY

FRONT: \*SEE NOTE: SIDE: 15' REAR: 15'

\*RIGHT-OF-WAY IS LESS THAN 40', FRONT  
SETBACK SHALL BE 45' FROM THE CENTERLINE  
OF THE WAY\*

THE LOCUS IS LOCATED IN FLOOD ZONE X  
AS SHOWN ON FIRM MAP 25023C0239L  
DATED 7/6/2021

**BUILDING COVERAGE**

EXISTING:
LOT AREA=32,316± SF.
HOUSE=2,300± SF. (NO CHANGE)
TOTAL=2,300± SF. OR 7.1%

**NOTE**

NO WETLANDS WERE DELINEATED AS A  
PART OF THIS SURVEY

THE WETLAND PROTECTION OVERLAY DISTRICT  
BOUNDARY AS DESCRIBED ON THE ZONING  
MAP (ELEVATION 11 CONTOUR) DOES NOT  
FALL WITHIN THE LIMITS OF THE PARCEL.



THE BUILDING LOCATION SHOWN IS BASED ON AN  
INSTRUMENT SURVEY.

*Edward Servant*  
Rev. 4-1-24  
PROFESSIONAL LAND SURVEYOR

- 1. REV. 3-8-2024 added setback dimension, variable width note
- 1. REV. 4-1-2024 added WPOD note

Drawn For: Brian & Kristina Barry

**CERTIFIED LOCATION PLAN  
SHOWING PROPOSED DECK  
33 GRAND VIEW AVENUE  
DUXBURY, MA  
PARCEL 083-988-002**

Drawn By: NW/DC
Checked By: RVS
Scale: 1"=20'
Date: 10-24-2023
Job No.: 9423
Plan No.: 9423 Barry

**STENBECK & TAYLOR, INC.**  
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