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TOWN OF DUXBURY



BOARD OF APPEALS

DUXBURY BOARD OF APPEALS

MEETING MINUTES

October 13, 2022 @ 7:00 p.m.

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

Other persons present at the hearing: Jim Wasielewski, Building Commissioner, Amy Kwesell, Town Counsel 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 #2022-10, Old Myrtle Street LLC, Keene's Mill Village, 0 North Street: *The Board voted to continue the public hearing to December 1, 2022 at 7:00pm.*

ZBA Case #2022-21, McLaughlin, 37 Ocean Road North: *The Board voted 5-0 to grant the special permit*

Judith Barrett makes a motion to adjourn. Tanya Trevisan seconds (5-0)

BOARD OF APPEALS MINUTES

Case No: 2022-10

Petitioner: Keene's Mill Village

Address: 0 North Street

Date: October 13, 2022 Time: 7:00 p.m.

Members present: Judith Barrett (CPT), Freeman Boynton Jr, Emmett Sheehan, Borys Gojnycz, Philip Thorn & Tanya Trevisan

Members Voting: Judith Barrett, Freeman Boynton Jr., Emmett Sheehan, Philip Thorn & Tanya Trevisan

Other persons present at the hearing: Amy Kwesell, Town Counsel, Jim Wasielewski, Building Commissioner and Lauren Haché, Principal Assistant

- Judith Barrett, Chair Pro Tem, re-opens the public hearing and states we do have some new materials, revised plan set, peer responses, storm water calculations and I think that is it. Let have the Applicants speak first here.
- Jonathan Silverstein, Agent for the Applicants, we did submit, just today, a new landscape plan that sows some open space for the development and we just received the peer review response as well
- Rick Grady, the Engineer for the project, presents the revised plan set including site plans that include some larger green space, the 8 single homes on North Street we combined into 4 duplexes to allow for more green space at that intersection and allows us to put a combines septic system there. This also moves the driveways back beyond 100 feet from the Keene Street intersection. We also went out with Pat Brennan to take some soil sampling and were able to come up with stormwater calculations. We slid the roadway in the South Hamlet section to get the road off the septic system there. We did just learn that the fire department would prefer a cape cod berm over a granite cut sidewalk, so we will be addressing that. We did read through Pat Brennan's recent review and we feel we are about 70% there in terms of having an approvable plan. All of the setbacks between wells and septic's are at least 150 feet, so we made it a point to respect the neighbors and work on those. We are still working on some landscape plans and renderings as well.
- Freeman Boynton Jr states are you going to meet the Duxbury BOH regulations for groundwater separation
- Rick Grady states we are seeking a waiver from the State groundwater
- Philip Thorn asks about cape cod berms and what the Fire Dept. prefers with a way to find a common ground
- Judith Barrett states my preference is to listen to the Fire Chief
- Rick Grady states it will be asphalt depending on what is preferred and we are at a 24 foot wide roadway here
- Judith Barrett states does anyone on the Board have questions
- Freeman Boynton Jr asks to see the site plan on the wall and asks about the test pits and soil logs; so you're creating a wall and building a mound around it
- Rick Grady confirms and states a 3 foot wall
- Judith Barrett states what would be the impact on this if you had to comply with local regs

- Rick Grady states, it would raise it a foot higher
- Tanya Trevisan states do you have the nitrogen calcs
- Rick Grady states we're not in an aquifer protection zone or a zone 2, so we're not subject to any nitrogen loading restrictions
- Freeman Boynton Jr states Judi is that correct
- Rick Grady states per the Planning Board, its in Aquifer Protection only
- Freeman Boynton Jr states why did you go from individual systems to one large presby
- Rick Grady states we changed this due to setback to well conversations and with this, we are now positive that we are 150 feet from all wells
- Judith Barrett states Board members any more questions
- Freeman Boynton states is there another way to do the sidewalks
- Rick Grady states I believe the better overall look is to have a grass strip in there
- Emmett Sheehan agrees
- Jonathan Silverstein, Agent for the Applicants, states maybe we can ask the Fire Dept if they are okay with slopped granite; also, just to show the Board, Mr. Silverstein shows the plan of the heavily screened on the property line with the carriage road
- Rick Grady states we propose the wall 8 feet off of the septic and we would like to plant the arborvitaes at the top of the wall so they start 3 feet higher
- Judith Barrett invites the Town's Peer Review Consultant to present
- Pat Brennan, Amory Engineers, states a few comments on what was presented tonight, the detail on the roadway section on sheet 4 show concrete sidewalks. My opinion on the cape cod berm, you never want the berm adjacent to the sidewalk. I think the slopped curbing may be a viable option if the Fire Dept. is amenable to. I will look into the Planning Board rules and regs respective to nitrogen loading, but I do believe it's APOD. I also submitted a letter yesterday, most of my comments relate to the drainage. We can work through that on the next set of plans. As Rick mentioned, I did go out and monitor test pits with them back in September and what those test holes showed was the ground water a little bit higher than expected where the septic system is going, which is why they lifted that up. There are really good soils where the rain garden is proposed, really sand, so that is good for infiltration. Based on the groundwater, It shows us that the localized ground water flow is to the wetlands, which is what we expected. The onsite testing confirmed that. Those are the main items I wanted to have address tonight.
- Judith Barrett confirms that Nitrogen Loading Calcs are required in Aquifer Protection Overlay Areas, Zone II's of other towns and areas subject to the Wetlands Protection Act.
- Freeman Boynton Jr states Pat, do you think the drainage is viable? Is it going to fit in the space they are proposing to utilize
- Pat Brennan states it is viable, what they did this time around was recharge as much as possible, based off of Mr. Horsley's comments from last meeting, stating they should try to meet exactly what is going into the ground now. So the re-design is aimed at specifically doing that; the stormwater tanks hold the water, not allow it to infiltrate and release it at a much slower rate. They also have the rain gardens for recharge.
- Philip Thorn states Pat, is there any concern in your mind that the test holes were dug at the end of a drought season

- Pat Brennan explains that in 1995 when they re-did title 5, now we have soil sampling in different colors in the soils and oxidation. Mr. Grady and I are both Soil Evaluators certified by Mass DEP, so I am confident with what we found.
- Judith Barrett opens the floor to the public for comments, focusing on new information
- Carol Smith, 415 North Street, asks about the shared septic and asks that this is not the same as an onsite waste water treatment facility. According to Title 5 Mass Law, these bonus rooms need to be considered as bedrooms. By law with the bedrooms and the bonus rooms in each, that puts this project at 112 bedrooms and anything over 90 bedrooms requires a separate waste water treatment facility plant which I think is different. Shouldn't we be looking at this
- Freeman Boynton Jr asks if we can look at floor plans
- Rick Grady states I can assure you we can look at this and if the BOH consider these extra bedrooms, we can modify or set this up in a way that won't happen.
- Judith Barrett states so we will stay below the 90
- Rick Grady states there will be a plan and an on-site waste water and a permit through Tracy and the Board of Health.
- Freeman Boynton Jr states I imagine if these meet the definition of a bedroom, then Rick will have to accommodate that
- Nancy Shine, 840 Keene Street, states I have a question on the open space, what is a definition of open space at those corners on North and Keene
- Jonathan Silverstein states we did just send in today the current landscape plan with benches, a path and landscaping. At the South Hamlet a gazebo, benches and landscaping as well.
- Carol Smith, 415 North Street, states on that plan, according to your own traffic study, they recommend no vegetation that is too high.
- Freeman Boynton Jr states is that a 4 way stop
- Jonathan Silverstein states we will confirm with the Traffic Consultant and adjust that
- Nancy Shine, 840 Keene Street, states back at that issue, this is a very, very dangerous intersection. Just keep that in mind when you're designing that. The flooding after rain is very bad there as well.
- Tom Warren, 415 North Street, states coming down North to Myrtle it's like a drag strip with the speed. It's a disaster
- Deirdre Graceffa, 62 Myrtle Street, what is the plan for utilities and I am wondering about the 150 foot regulation is the same with the larger septic system and were there new wetland delineations done and do we have access.
- Rick Grady states the well setback for the system does not change, it stays the same at 150 feet. We are well in excess of even the Town's setback on this. There won't be natural gas and the wetland delineation is on the most recent plan and that will be filed with Conservation soon.
- Keith Hanley, 405 North Street, comments about the intersection and blind spots. It is dangerous and I just wanted to reiterate that
- Carol Smith, 415 North Street, states I am really concerned with water pressure here and similar projects were denied due to this. On Taylor Street, there was a fire and the Fire Dept went to hook up to the hydrant and there was no water so surrounding towns had to come in with water tank trucks. I am looking for Fire Department comments. My second point is that now that there are duplexes and I would like to see the specs for those. Also, can I confirm that none of these will have basements correct

- John Baldwin states yes they are, they all have
- Carol Smith states I think you should consider French drains and sump pumps
- Judith Barrett states do we have revised architectural plans
- Rick Grady states we do not, not yet, the Architect is working on those and we will submit those to the Board
- Freeman Boynton Jr states have we had a fire flow test yet
- Rick Grady states not yet, they are trying to schedule that with the Water Dept.
- Freeman Boynton Jr states are any of these basements below any of the modeling in the test pits
- Rick Grady states no
- Tom Warren, 415 North Street, I have a question regarding the easement and the water running down this hill. Also, I am really concerned for the septic system, can you show me where they go again. I think Pembroke would want to know. How many people will be living here
- Emmett Sheehan states the same amount of bedrooms
- Tom Warren states I don't believe this system can handle this amount of bedrooms and people
- Dennis Murphy states on behalf of the neighbors, I would like to touch on the APOD issue and we do allow shared septic systems but keep the same setbacks. I think the Board does have the authority to ask for a Nitrogen Loading assessment here. We still feel the mounding calculations are incomplete. Lastly, there is a reference to a new waiver list from September 7th is the last one I see, is there a new one.
- Scott Horsley states thank you Madam Chair, may I share a few slides and ask a few questions. Mr. Horsley talks about mounding analysis and Mass DEP guidelines. I would like to address this general waiver from the wetlands, it appears that raingardens will be subject to the wetlands regulations as resource areas. We should take a look at this here.
- Rick Grady states that the Duxbury Board of Health 200 foot setback is from contaminants and the Duxbury Board of Health has never considered a septic to be a contaminant in town. Also, Mass DEP defines a large system at over 10,000 gallons per day.
- Scott Horsley states I have to take issue with that, over 10,000 gallons per day is a treatment facility. Anything over 2,000 gpd is a large system and I would be happy to provide that documentation.
- Judith Barrett states why don't you submit that documentation and Mr. Grady can as well and we can sort through that. Amy, do you have any question or comments
- Amy Kwezell, Town Counsel states I do now
- Jonathan Silverstein states Mr. Murphy said that this board has the authority to request a nitrogen loading calculation done and I am sure we all know, under chapter 40B there has to be some local requirement that is being applied equally to this project that is being applied to other projects. We are internally preparing a much more detailed waiver list and we will submit once the plans stop changing (due to these meetings and comments we work through).
- Judith Barrett reads the Planning Board's rules with regard to Nitrogen Loading. We need to know
- Jonathan Silverstein states Is that a subdivision
- Judith Barrett states yes
- Jonathan Silverstein states so again, we are not proposing a subdivision

- Judith Barrett states what would you like to do in terms on a continuance, since I am hearing you have more work to do
- Jonathan Silverstein states Mr. Grady thinks we need about 6 weeks before the next hearing. I think that would be December
- Lauren Hache states December 8th is the first meeting in December
- Jonathan Silverstein states we can send another extension to the 180 days
- Amy Kwezell states we are up in November and I am not available on December 8th
- The Board discusses dates and agree to December 1st at 7pm
- Tanya Trevisan makes a motion to continue the public hearing to Thursday, December 1, 2022 at 7:00pm.
- Emmett Sheehan seconds.
- All those in favor JB, TT, PT, FB, ES

Motion: It was moved, seconded and unanimously voted to continue the public hearing to December 1, 2022 at 7:00pm.

Moved by: TT

Number in favor: 5

Seconded by: ES

Number opposed: 0

BOARD OF APPEALS MINUTES

Case No: 2022-21

Petitioner: McLaughlin

Address: 37 Ocean Road North

Date: October 13, 2022 Time: 7:30 p.m.

Members present: Judith Barrett (CPT), Freeman Boynton Jr, Emmett Sheehan, Borys Gojnycz, Philip Thorn & Tanya Trevisan

Members Voting: Judith Barrett, Freeman Boynton Jr., Emmett Sheehan, Philip Thorn & Tanya Trevisan

Other persons present at the hearing: Jim Wasielewski, Building Commissioner and Lauren Haché, Principal Assistant

- Judith Barrett opens the public hearing and reads the public hearing notice and case response for the case and asks the Applicant present
- Paul Brogna, Seacoast Engineering, introduces himself and shares the plan for the board and states the extension to square off the exiting deck is proposed as 7 feet by 8.2 feet about 57.4 square feet, open pile foundation which will house the air conditioner unit and generator.
- Freeman Boynton Jr states does the building code allow this
- Jim Wasielewski states it goes by manufacturers specs and distance to combustibles. Generally, it is something we would review on the permit.
- Judith Barrett states does the board have any questions
- Emmett Sheehan and Philip Thorn state No
- Freeman Boynton Jr states can you share the site plan Lauren
- Paul Brogna explains the plan and states Conservation approved this last fall
- Judith Barrett states can we have a motion to close the hearing
- Tanya Trevisan states so moved
- Emmett Sheehan seconds
- All in favor JB, TT, PT, ES, FB
- Emmett Sheehan makes a motion to approve the special permit request as presented for 37 Ocean Road North
- Tanya Trevisan seconds
- All those in favor JB, FB, ES, PT, TT

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

Moved by: TT

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: TT

Number in favor: 5

Number opposed: 0