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DUXBURY, MASS.

TOWN OF DUXBURY

BOARD OF APPEALS

DUXBURY BOARD OF APPEALS
MEETING MINUTES
January 12, 2023 @ 7:00 p.m.

ATTENDANCE: Judith Barrett (CPT), Wayne Dennison, Freeman Boynton Jr., Emmett Sheehan, Philip Thorn, and Tanya Trevisan
Other persons present at the hearing: James Wasielewski, Director of Municipal Services & Lauren Haché, Principal 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 January 12, 2023 at 7:00pm.*

ZBA Case #2022-24, Bandera, 40 Alden Street: *The Board voted to unanimously (5-0) to approve the special permit.*

Administrative:

A. Duxbury Woods Master Deed Amendment: *The Board voted unanimously (5-0) to amend the master deed for Duxbury Woods.*

Emmett Sheehan moves to approve the minutes from December 8, 2022. Philip Thorn Seconds.

Wayne Dennison moves to adjourn. Tanya Trevisan seconds.

BOARD OF APPEALS MINUTES

Case No: 2022-10
Petitioner: Keene's Mill Village
Address: 0 North Street
Date: January 12 , 2023 Time: 7:00 p.m.
(Continued from December 1, 2022, October 13, 2022, September 8, 2022, July 14, 2022, and May 12, 2022)

Members present: Judith Barrett (CPT), Freeman Boynton Jr, Emmett Sheehan, Philip Thorn, and Tanya Trevisan
Members Voting: Judith Barrett, Freeman Boynton Jr., Emmett Sheehan, Philip Thorn, and Tanya Trevisan
Other persons present at the hearing: Amy Kwesell, Town Counsel, Jim Wasielewski, Building Commissioner and Lauren Haché, Principal Assistant

- Judith Barrett reopens the public hearing and reads all of the new correspondence that has been submitted since the last hearing, in particular the revised site plans dated December 22, 2022, and updated waiver list, a memo from the Board of Health Agent, a series of letters from abutters among other memos.
- Rick Grady, the Engineer for the project, presents to the Board the changes that have been made since the previous hearing. Mr. Grady states we have reached out to Natural Heritage and we do have a meeting with them January 25th
- Tanya Trevisan states there was a letter from an abutter speaking about a cart path being blocked, can you speak about that
- Rick Grady states sure, we have determined that it is not a road and that we can construct the septic system where we are proposing it. We do have the opportunity to shift the road and septic system if we have to, but we don't believe we have to
- Jonathan Silverstein, the Attorney for the Applicants, states it is pretty well established that local boards are not entitled to adjudicate private property disputes.
- Attorney Dennis Murphy, Hill Law, representing the Abutters speaks about the waivers and the Board of Health regulations and Title 5 relative to this project. He also states 388 North Street has a drinking well that is not on this plan
- Scott Horseley, Water Quality Analyst, speaks to the risks he shows with the wastewater flow and mounding analysis
- Pat Brennan, PGB Engineering, the Town's peer review consultant explains ground water mounding and how it is not an issue in this instance and the groundwater standards. I have been working with Mr. Grady to get on the same page here
- Judith Barrett opens the meeting to the public for new comment.
- Kim Abplanalp, 120 Myrtle Street, speaks about concerns of the impact of the traffic with this development
- Sherri Hussar, 440 North Street, states I don't think the application was complete and speaks about a potable well at 388 North Street not shown on any plans
- Dick Brennen, 100 Myrtle Street, speaks about the septage lagoons down the street and asks why not sell a few houses and make a big profit rather than a large development
- Glenn Kanner, 275 North Street, thanks the Board and does touch on the point of another drinking well in the area very close to the large septic system and that it is negligent

- Carol Smith, 415 North Street, speaks about the health risks and the potential hazards she sees with the mounded septic being proposed
- Emmett Sheehan states Rick can you address this well moving forward
- Rick Grady states yes, I will go back and dig into my notes from when the plan was developed
- Amy Kwesell, Town Counsel states do all three septic systems need the waive to 5 feet to ground water
- Rick Grady states yes
- Jonathan Silverstein states we will address the potable well and put that on the plan. We are asking for a modest amount of waivers, most obvious because the Town does not allow multi family. The burden is on the town to demonstrate that a local concern outweighs the regional need for affordable housing-people should be aware of that. You have heard from your peer reviewer regarding the standards. We will agree to another 30 day extension to take a look at this well, but it is important to put this well issue in context.
- Freeman Boynton Jr. states I remember when we started this, we did not have all of the information, including a septic plan
- Attorney Silverstein states the I have not given the board a hard time about extensions and we did furnish a traffic review with the original application, which no one bothered to read
- Judith Barrett states we need to pull this in, what are we thinking for the next hearing date, which will most likely be the last hearing date.
- Attorney Silverstein states I want to be clear on what the Board is asking for from us
- Judith Barrett states the potable well distances from the well at 388 North Street
- Amy Kwesell states can we actually get the distances from the driveways to the corner and also some information on that stormwater easement, if it effects the developments property
- Rick Grady states the easement actually exists on the abutting properties
- Judith Barrett states would the Applicant consider rethinking the scale of this project in terms of it's impact on the neighborhood
- Freeman Boynton Jr. makes a motion to continue the hearing to February 9, 2023 at 7pm.
- Emmett Sheehan seconds
- All in favor JB, ES, TT, FB, PT

Motion: It was moved, seconded and voted (5-0) to continue the public hearing to Thursday, February 9, 2023 at 7:00pm.

Moved by: FB	Seconded by: ES
Number in favor: 5	Number opposed: 0

BOARD OF APPEALS MINUTES

Case No: 2022-24
Petitioner: James and Karen Bandera
Address: 40 Alden Street
Date: January 12 , 2023 Time: 7:00 p.m.

Members present: Wayne Dennison. Judith Barrett, Emmett Sheehan, Philip Thorn, and Tanya Trevisan
Members Voting: Wayne Dennison, Judith Barrett, Emmett Sheehan, Philip Thorn, and Tanya Trevisan
Other persons present at the hearing: James Wasielewski, Building Commissioner and Lauren Haché, Principal Assistant

- Wayne Dennison opens the public hearing and reads the public hearing notice and the contents of the application package, reads two letters in support from Bob Tuffy, 201 St. George Street and a letter from Rene Tuffy, 201 St. George Street and asks the applicants to present their case
- Freeman Boynton Jr. recuses himself from the case
- Karen Bandera, the home owner, presents to the Board the proposed plan to add onto the home, explaining that the proposed addition will be constructed on a slab and not a full basement. They plan to remove the free standing garage.
- The Architect for the project, David Rodman Johnson, speaks about the design plan concept
- Philip Thorn asks about the comment from the Health Agent that states a new 4-bedroom septic system was installed in June of 2022 and that the proposed addition will need to be 20 feet away from the septic system leaching field, the plan shows it 11.9 feet from the leaching field
- Mr. Johnson states the existing home isn't 20 feet from the leaching field, this is the first I am hearing about this
- Emmett Sheehan states you will definitely need something from the Board of Health to confirm this
- Philip Thorn states we're not qualified to make this determination; we want to make sure the plan proposed is compliant
- Freeman Boynton Jr states could I quote a Title 5 regulation; Title 5 requires a 10 foot setback to a slab foundation. As long as this is a slab, they only require 10 feet
- Wayne Dennison states can we just approve this subject to final Board of Health approval
- James Wasielewski states yes
- Wayne Dennison states does the Board have any questions. Is there anyone in the public who would like to comment
- Bob Tuffy, 201 St. George Street, states I am an abutter and the proposed design is far better than what they have currently. The previous state of the property was far less acceptable
- Wayne Dennison states I would move to close the public hearing
- Emmett Sheehan seconds
- All in favor WD, ES, JB, TT, PT
- Wayne Dennis moves to approve the special permit subject to final Board of Health approval
- Emmett Sheehan seconds
- All in favor WD, ES, PT, JB, TT

Motion: It was moved, seconded and voted (5-0) to close the public hearing.

Moved by: WD	Seconded by: ES
Number in favor: 5	Number opposed: 0

Motion: It was moved, seconded and voted (5-0) to approve the special permit subject to final Board of Health approval.

Moved by: WD	Seconded by: ES
Number in favor: 5	Number opposed: 0