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TOWN OF DUXBURY



BOARD OF APPEALS

**DUXBURY BOARD OF APPEALS  
MEETING MINUTES**

October 22, 2020 @ 7:30 p.m.

**ATTENDANCE:** Wayne Dennison, Judith Barrett, Freeman Boynton Jr., Emmett Sheehan, Philip Thorn & Borys Gojnycz

**Other persons present at the hearing:** Lauren Haché, Administrative Assistant

**CALL TO ORDER:** Wayne Dennison called the meeting to order and reads the Governor's Preamble: Pursuant to Governor Baker's March 12, 2020, Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020, Order imposing strict limitation on the number of people that may gather in one place, 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](http://www.pactv.org/duxbury) for information about Duxbury programming. To watch a meeting live on PACTV's streaming channel, PACTV Prime, visit [www.pactv.org/live](http://www.pactv.org/live). To watch replays of a meeting, visit [www.pactv.org/duxbury](http://www.pactv.org/duxbury) or to watch online visit PACTV's Video on Demand at [www.pactv.org/ondemand](http://www.pactv.org/ondemand). **NO IN-PERSON ATTENDANCE OF MEMBERS OF THE PUBLIC WILL BE PERMITTED.** Every effort will be made to ensure that the public can adequately access the proceedings to the best of our technical abilities; and despite our best efforts due to lack of technical infrastructure, this meeting will be available on PACTV to view a video recording and a transcript or other comprehensive record of proceedings as soon as possible after the meeting.

**ZBA Case #2019-17, WB Builders Duxbury LLC. Fieldstone Farm, 1 & 25 Lincoln St. (CONT'D.):**  
*The Board voted to continue the Public Hearing to November 19, 2020.*

**ZBA Case #2020-03, Larkin, 10 Pine Point Place (CONT'D.):** *The Board voted to continue the Public Hearing to December 10, 2020.*

**ZBA Case #2020-12, Duffy, 59 Ocean Road North:** *The Board voted unanimously 4-0 to grant the Special Permit with Conditions.*

**ZBA Case #2020-13, Rielly, 9 Puritan Way:** *The Board voted unanimously 4-0 to continue the Public Hearing to November 12, 2020 at 7:30pm.*

## BOARD OF APPEALS — MINUTES

**Case No: 2019-17**

**Petitioner: WB Builders, Fieldstone Farm**

**Address: 1 & 25 Lincoln Street**

**Date: June 25, 2020 Time: 6:00 p.m.**

**(Continued from January 23, 2020 & June 25, 2020)**

**Members present:** Wayne Dennison, Freeman Boynton Jr., Borys Gojnycz, Emmett Sheehan & Philip Thorn

**Members Voting:** Wayne Dennison, Freeman Boynton Jr., Emmett Sheehan, Borys Gojnycz & Philip Thorn

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

- Wayne Dennison opens the public hearing and reads the Governor's preamble
- Wayne Dennison asks Lauren Hache, who is sitting on this matter?
- Lauren states we have the entire Board with the exception of Judi Barrett
- Wayne Dennison states we have received a tremendous amount of material since the last public hearing and states he is going to read some of the material.
- Wayne continues, since the last public hearing we have received a Traffic Study Peer review on September 8, 2020, a supplemental Traffic Study earlier this week, a landscaping concept plan earlier this week, a landscape bench detail plan earlier this week, a conceptual street scape plan received today and within an hour before this hearing, we received additional material from the Applicant. We have also received a great deal of correspondence related to this matter including an email of concern from Peter McCabe, 41 Maple Pond Lane, a follow up from an email he mailed on June 10 and June 28<sup>th</sup>, we also have an email expressing concern from Diane Lilly of Lincoln Street dated June 29<sup>th</sup>, expressing absolute disagreement of the Traffic Report. An email dated July 20<sup>th</sup> from Richard Prone from the Duxbury Bike path and Sidewalk committee asking for a MEPA review with regard to the impervious area, Tom Beck of 695 Mayflower Street expressing concern about the traffic, it is a dangerous trek to get to his mail box, a letter from Kathleen Prone of Mayflower St. indicating that everyone is concerned about the traffic and safety and the two entrances where fieldstone farm are proposed are the worst section on Lincoln Street, there have been 29 accidents in the past 3 years on Lincoln Street, we already have two condo units on Lincoln Street. An email from Brian Dominguez referencing asking about the traffic peer review and raised some specific issue that he believed were worth looking at, the width of the street and school bus pickups and drop off. We received a memo from Marilyn Quilty stating that she and her husband saw an endangered box turtle on the property last with a phot of

the turtle. Mr. Richard Corey provided a video of an owl from the back of the property and also turtles, expressing concern for the wildlife. There is another email from Mr. Beck from September 5, expressing concern over the new Amazon warehouse coming to Kingston and how they will effect Lincoln Street. We received a lengthy letter from Mr. Prone, a representative of the Duxbury Sidewalk and Bike path Committee, pointing out the issues with the Traffic Report, asking the ZBA to deny the permit in the interest of safety. He also furnished an accident report by street name from the Duxbury Police Department.

- Mr. Prone has a letter dated today reflecting the 182-page of the traffic study was incomplete and has errors. Also mentions the nitrogen loading and the MEPA regulations and that there were many accidents that have occurred in the past.
- Wayne Dennison states we will start with the Peer Review that was conducted by McMahon Associates, but I will confess to you that this is a volunteer Board and that we do not engage on these determinations on a full time basis. So, extremely detailed material two days before the hearing, it provides almost no benefit to this Board.
- Jeffrey Bandini of McMahon Associates, 350 Miles Standish Boulevard, Taunton Mass. So, McMahon did peer review the traffic study from Vanasse and Associates dated September 8, 2020. It did have a number of issues that McMahon identified, namely six of them relative to the project study area addressing safety concerns. Mr. Bandini continues to go through his response memo to Vanasse and Associates. From a traffic perspective the Applicant has given us everything we have asked for at this time.
- Wayne Dennison states thank you, does the Board have any questions for Mr. Bandini
- Wayne Dennison continues that there was a letter addressing the Amazon facility that is being constructed in Kingston, has this been considered at all relative to this traffic study
- Jeffrey Bandini states at this time that has not been considered, the Applicant did contact the Town of Duxbury Planning Dept. to discuss any specific developments within Duxbury that would impact these particular roadways. If there are developments that are in abutting towns to Duxbury, that will impact these roadways that are being studied, then those should be considered.
- Wayne Dennison states what are your senses that this Amazon facility will impact this area of traffic
- Jeffrey Bandini states he was just made familiar with the construction of the Amazon facility, it will depend on how they deploy their fleet and their size.
- Wayne Dennison asks about the conflict with the accident data with what the neighbors attest to given the police data, can you speak to that at all
- Jeffrey Bandini states absolutely, so our original peer review we did note that the Applicant should review data from the Police Department, rather than relying on the State data. There could be a lag of 2-3 years with the States data, so we like to recommend on gathering the fresh statistics from the local police department. The Applicants supplemental review that we received Monday, preliminarily looks to have addressed this and it did not look that the numbers reached quite the height that some

have stressed. This is something we can certainly provide in our follow up comments to give some clarity as to how and what and what nature these crashes are.

- Wayne Dennison states thank you, any additional Board questions, if not let's turn things over to the Applicant now
- Peter Freeman, Agent for the Applicant, states we have Greg Webb, Jeffrey Dirk and Jim Pavlik here as well.
- Jeffrey Dirk, with Vanasse Associates states I am a registered Civil Engineer with the State with over thirty years of traffic study. I do want to apologize for the lateness of the submission of materials, there is no expectation tonight and I take full responsibility for this and thank you to Jeffrey Bandini for taking the time to take a preliminary look at this large supplemental peer review of the traffic study. Mr. Chair, should I walk through the report and hit the high points or a very brief summary.
- Wayne Dennison states the better course would be to have a brief overview, so that we can take the time moving forward for the Peer Reviewer to fully go through the material.
- Jeffrey Dirk states absolutely, thank you Mr. Chair. So, we did prepare a 180 page review of the traffic for this project. In the September 8, 2020 review from McMahon Associates, some areas were identified that would require further review, we did that, relative to areas such as Mayflower and Lincoln St intersection South of the site and then North of the site the Route 14 intersection with traffic volumes and vehicle travel speed data and the motor vehicle crash data. We did obtain the crash data directly from the Duxbury Police Department relative to both of those intersections, as well as all of Lincoln Street corridor. This was from 2016 through 2019 for a continuous period. Due to the COVID-19 pandemic, there are certainly adjustments that need to be made. We were able to take the traffic study conducted pre covid at a project North of this project and also took studies during covid at this location to see what the differences are and how to adjust and account for the changes in traffic as a result of the pandemic. The October 13, 2020 assessment has these items, travel speed measurements and that no one is trying to change the speed limit on Lincoln Street. Now, crash data from the Duxbury Police Dept. indicate there were eleven crashes over that four year period, at the Rte. 14 intersection. Between the Route 14 and Mayflower Street section, there were two MVA reported to the police department between 2016-2019, both involved single vehicles that drove off the road. There were no MVA reported to the Duxbury police department at the Mayflower Street and Lincoln Street intersection. Those were the findings provided by the Duxbury Police Department. The calculated motor vehicle crash rate is well below the State average. So project impacts and traffic volumes that this 36 unit residential community would produce somewhere between 30-38 peak hour trips, where 86% of that traffic would travel North and through the route 14 intersection and get on to route 3. Delays increase in less than a second, so the conclusion is that this project will not be impactful. Looking at the project site and how it interacts with the roadways, the key thing is safety. The site lines is what we look at and there have been some engineering improvements pertaining to the site lines. The removal or trimming of vegetation along Lincoln Street as well as regrading in that area. The lines of site with these recommended improvements, the site lines would exceed

what would be sufficient. Pertaining to school bus questioning, at this point the bus would make one stop on Lincoln Street. Should the Town require the school bus to enter the development, the project is constructed to accommodate a school bus or large emergency response vehicle to turn around.

- Wayne Dennison states thank you and the question that I had, really does relate to this Amazon issue
- Jeffrey Dirk states that there typically won't be any change as a result from the Amazon facility, the numbers are already included in the project numbers, as these volumes account for delivery vehicles now. With respect to unrelated vehicle traffic to this project, we have done many amazon facility builds throughout the state. These places are located close to the interchange specifically for this reason, as it is a package delivery facility. I don't expect these delivery vehicles to increase the traffic on Lincoln Street as a primary roadway. They aren't designed or programmed for that.
- Wayne Dennison states thank you, any questions from the Board.
- Peter Freeman states Jim Pavlik, Civil Engineer would like to briefly go over
- Jim Pavlik has Lauren Haché and Jim explains the grading sheet with the plantings overlay and continues to explain the planting plans with what is proposed. Any questions.
- Wayne Dennison states, does the Board have any questions for Mr. Pavlik
- Wayne Dennison states lets open this up to the public
- Richard Prone, Duxbury Sidewalk and Bike Path Committee, in response to Mr. Dirk's findings of the traffic, this stretch of road is the WORST stretch of road in this entire town. Mr. Prone continues that he has actually complained about the speed at a Rotary Club meeting back in February and the Fire Chief was present stating "yeah, that's a bad one". I wrote a letter to the Town Manager Mr. René Read requesting that road be reduced to 25 MPH and I mentioned this again to the Board of Selectmen.
- Wayne Dennison states thank you, is there anyone else who would like to speak this evening
- Brian Dominguez, located on Hatches Bar Road, some of these stats on the traffic reports. Lincoln and Mayflower is not an intersection, it is Mayflower and East Street- which was not included on their traffic study. We keep going over these same issues over and over, we need a checklist. One side of Lincoln Street bans trucks but the other side (South) does not. The site lines where the big bend in the road is, that needs to be addressed, it's been brought up several times. Lastly, the Board agreed that they were going to do a roundabout at route 14, has someone taken into account both developments being built. Thank you
- Wayne Dennison states thank you, anyone else
- Dana Grady, 66 Lincoln Street, I just have a very difficult time understand the speed limits that have been noted in these reports. The speeds are above 30 MPH, there are huge variations with speeds. Just trying to get my mail most days is a hazardous event. There are already two developments here, adding another is going to cause a lot of problems.

- Christine Bulman, Mayflower Street, I agree with what Brian was saying, that the traffic won't just be primarily be heading north, to get downtown, to the local stores, cars will head south to that awful intersection. It's scary. I am curious also, the wildlife, in particular the Eastern Box Turtle, the development falls within the protective habitat according to the State. Does the developer have to file
- Peter Freeman, states yes this was discussed, we have been in contact with the States Natural Heritage Office and we have to comply and file with the State and will follow that process.
- Jim Pavlik states that's correct. In May, we included the discussions with the Natural Heritage Program and made the appropriate changes to the plan and eliminated a long cul-de-sac and several homes to keep that protected.
- Wayne Dennison states thank you, just to be clear given the fact that there is going to be further review of supplemental material, this case will be continued.
- Theresa Demuzio, Mayflower, states what is the correct number of acreage that it's 9.3 acres of property that consists of endangered species habitat?
- Jim Pavlik states we do show the area but I don't have the exact acreage
- Theresa Demuzio states I show 9.3 acres
- Jim Pavlik states the process is to apply with the Natural Heritage Program and that is in conjunction with Conservation and we have moved a portion of the development out of that endangered species area
- Theresa Demuzio states also, I was heading to church and I was planning to ride my bike but unfortunately a dog was hit and killed. There is too much traffic, delivery trucks and a lot of speeding. After the dog incident I went to the police department and expressed my concern. Something has to be done.
- Wayne Dennison states so, there seems to be several issues that need to be reviewed. The traffic consultant reviewer needs more time and we need to continue this to another date, is there a date? Mr. Bandini how long would you need to review the additional material.
- Mr. Bandini states a few weeks time
- Wayne Dennison suggests December 10<sup>th</sup>, would that work?
- Lauren Haché states we have two new cases on that date as well
- Freeman Boynton Jr. states excuse me, what about a site visit.
- Wayne Dennison states that is an incredibly thoughtful option
- Mr. Freeman states that would be a good option. Would we be able to schedule a special meeting November 19<sup>th</sup>?
- Wayne Dennison states I could do that, the Board?
- Emmett Sheehan, Freeman Boynton. Phil states he's not sure.
- Wayne Dennison states I am going to move to continue this to November 19<sup>th</sup> and see if we can get a quorum in advance and worst case scenario would be to continue.
- Wayne Dennison states lets schedule a site visit
- Richard Prone states November 19<sup>th</sup> is not enough time to absorb this 180 page traffic report.

- Wayne Dennison states we have an obligation to keep this case moving as swiftly as we can
- Peter Freeman states in terms of a site visit, we can arrange this given a date that works for your Board
- Wayne Dennison states Emmett, Freeman what works
- Emmett Sheehan states we work locally
- Freeman Boynton states I am around this weekend
- Wayne Dennison states how about Wednesday morning, October 28, 2020 at 9:00am
- Wayne Dennison states can I get a motion to continue the public hearing to November 19, 2020
- Freeman Boynton makes the motion
- Emmett Sheehan seconds
- WD. ES, FB, PT

**Motion: It was moved, seconded and unanimously voted to continue the public hearing to November 19, 2020**

Moved by: FB

Seconded by: ES

Number in favor: 4

Number Opposed: 0

## **BOARD OF APPEALS — MINUTES**

**Case No: 2020-12**

**Petitioner: James and Gail Duffy**

**Address: 59 Ocean Road North**

**Parcel #'s: 139-939-106**

**Date: October 22, 2020**

The Board of Appeals will hold a public hearing via ZOOM on Thursday, October 22, 2020 at 7:30 p.m. to consider the application of James Duffy III c/o Jessica Williams for a Special permit under Article(s) 400 and 900, Section(s) 401.2, 410.4 and 906.2 of the Duxbury Protective Bylaw. The property is located at 59 Ocean Road, Parcel No. 139-939-106 of the Duxbury Assessors Map, consisting of 0.103 acres in the Residential Compatibility (RC) District, the Flood Hazard Area Overlay (FHAO), Wetlands Protection District (WPD) and Dunes Protection District (DPD) and owned by James Duffy III. The Applicant proposes to raze and rebuild a pre-existing, non-conforming property to conform to FEMA code. 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. 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.

**Members present:** Wayne Dennison, Emmett Sheehan, Freeman Boynton Jr. & Philip Thorn

**Members Voting:** Wayne Dennison, Emmett Sheehan, Freeman Boynton Jr. & Philip Thorn

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

- Wayne Dennison opens the Public Hearing, reads the Governor's preamble and proceeds to make a read the Public Hearing notice for case 2020-12, Duffy, 59 Ocean Road North.
- Wayne Dennison states Lauren would you mind reading the correspondence for this case
- Lauren Haché reads the memos received from the Design Review Board, Planning Board, Conservation Commission and Board of Health.
- Wayne Dennison states that there are a large amount of emails from Abutters in support of the project.
- Lauren Haché reads all of the emails into the record.
- Wayne Dennison continues ok, that is a widely supported project, why don't we hear from the Applicant
- Jessica Williams speaks as the Applicant and asks to share her screen
- Lauren Haché interrupts, excuse Mr. Chairman, we only have four members present at this time, Judi (Barrett) and Borys (Gojnycz) have dropped of the Zoom due to connection issues.



- Wayne Dennison states ok, right; that can pose an issue. The Applicant has the ability to proceed with the four Members, but the Applicant would need a unanimous vote.
- Jessica Williams states I would like to ask if I could get a read on the Board, could I continue or do I have to decide now?
- Wayne Dennison states we can have you proceed and take a read from the Board
- Jessica Williams states I would like to move forward and proceeds to continue her presentation. Ms. William's presents her case, showing the site plan and points out the proposal is exactly as the footprint. Where the change is, is in the area. The project will gain a little area, as there is a proposed deck that goes all the way around the house. We are moving the main living space up to see over the new seawall. The rooms are at full story height to increase bedroom area and the screened in porch. Ms. Williams continues by showing the floor plan, the main living area is nearly identical, the downstairs is where we are asking for the increase in space, the screened in porch section. The top level is the master space which is much smaller with a roof deck for plantings. The elevation, looking at the side views are a little wonky I'll admit and proceeds to ask the Board if they have any questions.
- Wayne Dennison states so the question I have is relative to the expansion of the square footage and the 3% rule
- Jessica Williams replies yes, correct
- Wayne Dennison states where is that calculation
- Jessica Williams states 20.2% to 27.3%; in doing so that increase isn't taking up any more square footage on the land or site, it's already covered by an existing deck. By lifting the deck up, it leaves a nine foot high space under a deck we'd like to occupy.
- Wayne Dennison states can you do the math problem? I just want to understand how you use the 3% rule
- Jessica Williams responds alright
- Freeman Boynton Jr states how come the site plan states the existing coverage is 21.4% and the proposed is at 27.3% is my first questions and I'm also wondering, I don't believe the Building Department considers decks coverage on a lot, conservation would. It has to have a roof on it to be considered coverage.
- Jessica Williams states you are right. So Zoning, we have created a space that's occupy able under a deck. If water can go through the ceiling, an argument can be made that it is not living space but anybody could enclose the deck and make it impervious coverage, therefore we are requesting more than the 3% rule.
- Wayne Dennison states so the 3% rule, but I don't see any calculation that complies with the calculus that's in the bylaw?
- Jessica Williams states it's in our site plan, in the notes, 3% allowable is 25.8%, existing is 21.4%, so we're asking for additional with the screened in porch
- Wayne Dennison states so I don't understand how you're not asking for a variance
- Jessica Williams states well the zoning bylaw allows, by right, to get 3%, but doesn't say more than 3% is not allowable. So I believe with a Special Permit we can ask for above and beyond. I've done this on other projects
- Wayne Dennison states ok

- Jessica Williams continues so it's an 8ft screened in porch, so we could leave the screen off, but there is still 9ft in air space with the deck over it, but it wouldn't be considered in excess of the 3%, if we keep the screened in porch, that puts us over the 3%.
- Emmett Sheehan states one of my problems is that screened in porches turn into glass closed porches which equal living spaces.
- Jessica Williams states that's not our intention, but that's why we are here in front of you asking for it
- Emmett Sheehan states maybe don't put a roof on it, keep it a deck
- Jessica Williams states ok, here's the questions, I am wanting to maintain the deck that's here but because we were lifting it, is it roof if there is a deck above it?
- Freeman Boynton Jr. states Jim Wasielewski, would you consider non-impervious
- Jim Wasielewski states with respect to coverage, section 410.4 under coverage states "not greater than 3% of the difference" seems clear to me. Part two to Freeman's question, I would consider that is water can drain through.
- Wayne Dennison states so even in coverage the definition, no more than 15% of the coverage of a lot...is the total area of the lot less than 20,000 sq. feet
- Jessica Williams states 4,356 sq. feet
- Wayne Dennison states so 20,000 less 4,000 is roughly
- Jessica Williams states yeah, so 11,023 sq. feet, existing is 9,034
- Wayne Dennison states but your point isn't 3% rule, your point is pre-existing, non-conforming.
- Jessica Williams states yes, that's correct. I've done this on previous projects in the past and have received that.
- The conversation continues regarding the calculation...
- Jessica Williams states I can tell you the resolution would be to make it 4 1/2 feet and take back 3 1/2 feet to be at 3%
- Wayne Dennison states that the non-conformity here...
- Jessica Williams states the structure, the whole lot is non-conforming
- Wayne Dennison states I think the lot coverage is already non-conforming, so what we're trying to figure out here is to extend the non-conformity without extending the non-conformity. I think we can do that, if we make sufficient finding. I think the Board will have to look at the case law around this, to get to where you want to be.
- Jessica Williams states so the two options would be to poll the Board or reduce the screen porch by 65 sq. ft.
- Wayne Dennison states you have a design that the Design Review Board likes...
- Emmett Sheehan states shrink the whole house by 65 sq. ft.
- Jessica Williams states the reason I want to fight for this is because the main floor space with the deck...
- Emmett Sheehan states I wouldn't approve it with a roof on it
- Jessica Williams states so, if I take off 3 1/2...
- Emmett Sheehan states the design is beautiful, squeeze it in
- Jessica Williams states well, square feet is important, I'd rather lose the screen porch. Would you approve if it was just a deck about it?

- Freeman Boynton Jr. asks can I weigh in on this, I think the screen porch is narrow, make the roof non-impervious, make it 12 feet, you just can't go out in the rain. If we allow rain to come down, it's not coverage.
- Jessica Williams states I believe my Clients would be agreeable to that
- Freeman Boynton Jr. states just screen in underneath the roof boards to keep bugs out. If we allow rain to come down, it's not coverage. Also, you've applied with Conservation?
- Jessica Williams states we are meeting next Tuesday, we're not touching the wetlands protection, so I am not concerned
- Freeman Boynton Jr. states so, you'd like us to vote tonight?
- Jessica Williams states I'd like to ask you, Jim Duffy, if you leave the section deck over the screen porch pervious...
- Jim Duffy states I think Freeman's idea is great, Gail?
- Gail Duffy states yes
- Jessica Williams says thank you Gail and Jim, can I get a pole?
- Emmett Sheehan states so this keeps you in the 3%
- Jessica Williams replies right
- Philip Thorn states, umm, ok so I am always reluctant about approving a plan that will be altered, I am asking the more experienced Board?
- Freeman Boynton Jr states I believe Jim Wasielewski will see the revised plans and approve and a condition of the Special Permit will suffice
- Jim Wasielewski states I have one questions, where is the existing calculation? I'm wondering if that will help you with the roof
- Jessica Williams states 934 sq. ft. 21.4%, requesting 1188 sq. ft., allowable is 1123 sq. ft.
- Further lot coverage calculations continue between the Board, Jessica Williams and Jim Wasielewski
- Wayne Dennison states here's my issue, I think this plan is approvable as is, I would like to continue this to make appropriate findings to let them expand the coverage conformity because no new non-conformity is being made.
- Emmett Sheehan states I say we continue this to figure it out
- Jessica Williams states I think the Applicants will want to move forward and submit drawings in a few weeks, assuming Conservation approves. So, Jim Duffy, do you want to fight for the 65 sq. ft. or condition the Special Permit that it is a screened, non-pervious porch?
- Jim Duffy states Gail, Jess thoughts> I'd like to go get going on this, I have trust, let's shoot for the 12<sup>th</sup>?
- Wayne Dennison states it allows you time to explore or plan for Phil
- Freeman Boynton Jr. states it sounds to me like you don't get unanimous approval
- Jim Duffy states well, then let's not waste time and let's go now
- Jessica Williams states ok, can I poll the Board with the conditioned plan
- Freeman Boynton Jr. states I think everybody is ok with it
- Jim Duffy states ok, that's fine
- Jessica Williams states we'd like to move forward
- Emmett Sheehan states let's close the Public Hearing
- Freeman Boynton Jr. states is there any one here to speak?

- Wayne Dennison states ok, alright, anybody else, let's move to close the Public Hearing.
- Emmett Sheehan second
- All in favor, Wayne Dennison, Freeman Boynton Jr., Emmett Sheehan and Philip Thorn approve
- Wayne Dennison states ok, what is the right condition for the record and permit?
- Freeman Boynton Jr. states the approval would be subject to the roof of the screen porch being pervious
- Wayne Dennison states ok, I move to approve the Special Permit subject to the condition that the screen porch roof is pervious.
- Freeman Boynton Jr. second
- All in favor WD, FB, ES and PT

**Motion: It was moved, seconded and unanimously voted to approve the Special Permit with conditions.**

Moved by: WD

Seconded by: FB

Number in favor: 4

Number Opposed: 0

**Motion: It was moved, seconded and unanimously voted to close the Public Hearing.**

Moved by: WD

Seconded by: FB

Number in favor: 4

Number Opposed: 0

## **BOARD OF APPEALS — MINUTES**

**Case No: 2020-13**

**Petitioner: Kate Rielly**

**Address: 9 Puritan Way**

**Parcel #'s: 081-959-156**

**Date: October 22, 2020**

The Board of Appeals will hold a public hearing via ZOOM on Thursday, October 22, 2020 at 7:30 p.m. to consider the application of Katherine Rielly c/o Grady Consulting, LLC for a Special permit under Article(s) 400 and 900, Section(s) 401.2 #4, 410.4 and 906.2 of the Duxbury Protective Bylaw. The property is located at 9 Puritan Way, Parcel No. 081-959-156 of the Duxbury Assessors Map, consisting of 0.090 acres in the Residential Compatibility (RC) District and owned by Katherine Rielly. The Applicant proposes to raze and rebuild a pre-existing, non-conforming dwelling. 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. 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.

**Members present:** Wayne Dennison, Emmett Sheehan, Freeman Boynton Jr. & Philip Thorn

**Members Voting:** Wayne Dennison, Emmett Sheehan, Freeman Boynton Jr. & Philip Thorn

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

- Wayne Dennison opens the Public Hearing and reads the Public Hearing notice. Lauren, what did the other boards have to say?
- Lauren Haché reads the Board of Health memo, Conservation Committee memo, Planning Board memo and Design Review Board memo
- Wayne Dennison states ok, so why don't we hear from - did we get any letters of support or opposition. Alright, so Mr. Grady would you like to speak?
- Nicholas Leing speaks and shares his screen and shows the plan.
- An Abutter interrupts and asks a question, identified later as Piper Hollis of 10 Mullins Ave., she asks Nicholas about the elevation and where the first floor starts?
- Nicholas Leing states, absolutely, the first floor is currently the same, the deck is upper...
- Piper Hollis states, right, but how many feet off the ground level ...
- Freeman Boynton Jr states we should start with the Board first
- Nicholas Leing agrees and continues, the raze and rebuild requires a Special permit and then zooms in on the calculations on the site plan. 3% calculation is 4,000 sq. ft. lot times 15%, 20,000 less 4,000 x 3% equals 1,080, 27% is allowed and as you can see we are only going from 22.9% to 24.4%. The size and location are the non-conformity

- Wayne Dennison states can you go back to the chart? Have you reduced the side setbacks?
- Nicholas Leing states we did reduce the side setback, the existing is over the lot line, so we want to center it in the lot
- Freeman Boynton Jr. states you can't do that, I hate to be so blunt, you can move it 1.5 feet over
- Nicholas Leing states ok, we did hope that moving and centering would be seen as favorable
- Freeman Boynton Jr. states we'd love to see that, but we're not allowed to do it
- Nicholas Leing states that is fair, in that case...
- Freeman Boynton Jr. states you might want to go back to the drawing board
- Nicholas Leing states we would stay at the 15ft, we did know this might be a possibility
- Freeman Boynton Jr. states the porch that's .2 over, have a roof over it, I guess the bump out is a stairway
- Nicholas Leing states oh that whole side is enclosed structure
- Freeman Boynton Jr. states what does the dash line represent
- Nicholas Leing states overhangs
- Freeman Boynton Jr. states ok. Is this for the summer? Should we continue this to November 12<sup>th</sup> and let you come back with a revised plan?
- Nicholas Leing states sure, if you are amicable to that
- Wayne Dennison states I think so, I am going to move to November 12<sup>th</sup>
- Freeman Boynton Jr. second
- JP with Upper Deck Construction, I have concerns about continuing, when the weather turns especially for a rubber roof
- Wayne Dennison states well, we can continue it or deny it
- Freeman Boynton Jr states it's a substantial change, we need a revised site plan
- Wayne Dennison states all in favor
- Jim Daly, architect, may I speak?
- Wayne Dennison states I am sorry sir, there's a pending motion
- Freeman Boynton Jr states we will discuss this further on the 12<sup>th</sup>
- ES, FB, WD, PT
- Wayne Dennison states ok, we'll continue the approval of minutes to the 12<sup>th</sup>

**Motion: Move to continue the Public Hearing to November 12, 2020**

Moved by: WD

Seconded by: FB

Number in favor: 4

Number Opposed: 0