



TOWN CLERK  
2021 OCT 15 AM 8:18  
DUXBURY, MASS.

TOWN OF DUXBURY  
~~~~~  
BOARD OF APPEALS

DUXBURY BOARD OF APPEALS  
MEETING MINUTES  
July 29, 2021 @ 7:30 p.m.

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

**Other persons present at the hearing:** Amy Kwesell, Town Counsel, and 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 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](http://www.pactv.org/duxbury) for information about Duxbury programming including streaming on Duxbury You Tube, to watch replays and Video on Demand.

**ZBA Case #2021-13, Hammer, 1 Abrams Hill (CONT'D):** *The Board voted unanimously (5-0) to grant the special permit.*

**ZBA Case #2021-15, McKeag, 39 Shipyard Lane (CONT'D):** *The Board voted to continue the public hearing to September 9, 2021 at 7:30pm.*

**ZBA Case #2021-17, Island Creek Oysters, 405 Washington Street (CONT'D):** *The Board voted unanimously (5-0) to grant the special permit.*

**ZBA Case #2021-18, Hadley, 57 Shipyard Lane (CONT'D):** *The Board voted unanimously to continue the public hearing to September 9, 2021 at 7:30pm.*

**ADMINISTRATIVE**

**WB Builders, Fieldstone Farm 40B, 1 & 25 Lincoln St.:** *Wayne Dennison made a motion to approve the Comprehensive Permit with the findings and conditions therein the decision. Kathleen Muncey seconds. (5-0)*

*Judith Barrett made a motion to close the public hearing. Wayne Dennison seconds (5-0).*

*Kathleen Muncey approves the meeting minutes from July 8, 2021.*

## BOARD OF APPEALS — MINUTES

**Case No: 2021-13**

**Petitioner: Hammer**

**Address: 1 Abrams Hill**

**Date: July 29, 2021 Time: 7:30 p.m.**

**(Continued from May 27, 2021 and July 8, 2021)**

**Members present:** Wayne Dennison, Judith Barrett, Kathleen Muncey, Emmett Sheehan, Philip Thorn & Borys Gojnycz

**Members Voting:** Wayne Dennison, Judith Barrett, Kathleen Muncey, Emmett Sheehan & Philip Thorn

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

- Wayne Dennison re-opens the public hearing and reads the public hearing notice and asks Lauren Haché what additional materials have been received since the last meeting
- Lauren Haché states we have received new architectural plans and a revised site plan dated June 24, 2021, a letter from the homeowner Camilla Hammer along with a letter from the Massachusetts Historical Commission and a supplemental from the Design Review Board dated July 7, 2021. This memo states the cottage in question was erected in 1923.
- Wayne Dennison states does the Applicant want to speak this evening
- Jessica Williams states, yes I am the Agent for this case, I submit the document from the States Historical Commission and some assessing records. This proves that this dwelling pre-dates the Bylaw.
- Wayne Dennison states Jessica, can you refresh my memory, is this the one that was hit by the tree
- Jessica Williams states no Wayne, this was the case that I was hired to submit drawings, then the owner did decide to go with another Architect, David Johnson, who is here tonight. So, at the first public hearing, we did not have the final drawings that we are looking to have approved, which is why we had the Design Review Board re-visit the case.
- Wayne Dennison states Mr. Johnson would you like to say anything
- David Johnson explains his design and proposal
- Jessica Williams states I would like to point out that other than the fact that this is a second dwelling on one lot, there are no other zoning issues.
- Wayne Dennison states ok, does the Board have questions
- Kathleen Muncey states so the plans we are looking at, those are the June 24<sup>th</sup> ones, correct
- Jessica Williams states yes
- Kathleen Muncey states it's one story
- David Johnson states yes



- Jessica Williams states that the Con Comm. has already made some approvals and based on that, we have to stay within the square footage
- David Johnson states I believe the original cottage is 745 square feet and the proposed is 740 square feet
- Borys Gojnycz states Sarah McCormick stated that this design was approved
- Kathleen Muncey states yes, based on her letter
- Borys Gojnycz states if Sarah is ok with it, I am ok with it
- Wayne Dennison states this is one of these cases where the evidence of pre-existing, non-conformance is good and strong. Is there any member of the public looking to weigh in here...Wayne Dennison moves to close the public hearing
- Judith Barrett states does anyone know when that information was entered into the states database
- Jessica Williams states I don't know
- Wayne Dennison states Judi how does that question help us
- Judith Barrett states I am just trying to understand the genesis of the property, that's all
- Kathleen Muncey states I remember when the property was marketed and there was a really neat picture from the 1920's in front of the little house.
- Jessica Williams states there is a stamped document in here from 2002
- Judith Barrett states ok, I was just curious
- Amy Kwesell states Mr. Chairman I do agree with you, that there is significant evidence, so that puts the Board back to 401.2.5, so really right now the Board just needs to determine if the alteration shall not be more detrimental to the neighborhood
- Jessica Williams states I would like to clarify the building is not moving
- Amy Kwesell states I thought it was shifting, it's an alteration
- Philip Thorn states the current building is termites holding hands
- Wayne Dennison states I am going to move to close the public hearing
- Judith Barrett states so moved
- All in favor WD, JB, KM, PT, BG
- Wayne Dennison states does the Board have any discussions
- Kathleen Muncey states I think it's a really nice design
- Wayne Dennison states given the Design Review Boards comments, the documentation of proof from the Applicant and the presentation, I am in favor of issuing the special permit
- Judith Barrett states on the basis that it is not more detrimental to the neighborhood
- Judith Barrett seconds
- All in favor WD, JB, KM, BG, PT

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

Moved by: WD

Seconded by: JB

Number in favor: 5

Number Opposed: 0

**Motion: It was moved, seconded and unanimously voted approve the special permit as requested by the applicant.**

Moved by: WD

Seconded by: JB

Number in favor: 5

Number Opposed: 0

## BOARD OF APPEALS — MINUTES

**Case No: 2021-17**

**Petitioner: Island Creek Oysters**

**Address: 405 Washington Street**

**Date: July 29, 2021 Time: 7:30 p.m.**

**(Continued from July 8, 2021)**

**Members present:** Wayne Dennison, Judith Barrett, Kathleen Muncey, Emmett Sheehan, Philip Thorn & Borys Gojnycz

**Members Voting:** Wayne Dennison, Judith Barrett, Kathleen Muncey, Emmett Sheehan & Philip Thorn

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

- Wayne Dennison re-opens the public hearing and asks Lauren Haché to read the public hearing notice
- Lauren Haché reads the public hearing notice
- Wayne Dennison states ok, we have received an application and a plot plan, what about correspondence from other Boards
- Lauren Haché reads the correspondence from the Board of Health, a memo from the Conservation Administrator, a memo from the Planning Board and a letter in support from Bayside Marine Corp.
- Wayne Dennison states alright, let's hear from the Applicant
- Chris Sherman, with Ditch Digger LLC and Island Creek Oysters introduces himself and also introduces Sara Beattie of Consider the Lilies, the flower shop proposing to move into the space in the Richard's House. Mr. Sherman continues his presentation stating that we are requesting to change the use of the first story of the Richard's House to retail and then on the second story would be office suites, much in keeping with the neighborhood and the NB-Light district. Mr. Sherman shares his screen with a one page slide with the business model for Consider the Lilies, a floral design and retail shop. They are Duxbury Residents and a Women owned business. The operating hours will be Tuesday to Friday, 10:00am to 5:00pm and Saturday's 10:00am-2:00pm. They have three full time employees and our traffic study found no meaningful impact. Consider the Lilies encourages online ordering and offers a delivery service as well. As for parking, which is a very valid concern, we have ten off street parking spaces for Consider the Lilies and they are all accessible and we did meet with the Municipal Counsel on Disabilities and the Historic District Commission, so we have some good support from a building standpoint. My last point is that we did meet with our residential and commercial neighbors and have a list of supporters.
- Wayne Dennison states Chris, I have a question about parking, my experience is that given the popularity of many of the existing activities on the campus, that almost all of the campus gets very significantly full with parked cars, especially on any given Saturday from 10am to 2pm, how do you plan to address that



- Chris Sherman states we have a table we received from professional services we enlisted due to this issue and we do have the ten additional spots and yes, there are certain peak times, so in evaluating tenants, we try to find tenants that have complimentary peak times. We are currently engaged with our Architects and Civil Engineers to work on a solution, particularly Friday afternoons. We feel pretty strongly that we will be able to address this, but I would like to reiterate that we do currently have ample parking on site now.
- Wayne Dennison states okay, do other members of the Board have questions
- Judith Barrett states I would just like to state from a planning standpoint, the last thing we ever want to see as planners is an over-parked site but we don't want to be in the practice of requiring the business owners to supply more parking, especially in a small site like this. They will manage their parking supply
- Chris Sherman agrees, he states we are developing a plan to allow us to manage those peak points of time, but we are motivated to rectify this. We know that we can never have a car out on Washington Street, we are very sensitive to that and we are committed to that.
- Wayne Dennison states so we are talking about Consider the Lilies going in on the first floor, do you anticipate other businesses going in there as well
- Chris Sherman states right now, this is the only retail business we are anticipating, other than our raw bar
- Wayne Dennison states why don't we open the floor up to the public
- Wayne Dennison states Lauren the Planning Board was supportive, right?
- Lauren Haché states that is correct
- Wayne Dennison states ok, I am going to move to close the public hearing given we don't have any questions or comments from the board or the public
- Emmett Sheehan seconds
- All in favor WD, JB, ES, PT, BG
- Wayne Dennison states does anybody want to discuss this
- Judith Barrett states, I think it's great
- Wayne Dennison states alright, do you want to make a motion
- Judith Barrett states you make the best motions Wayne
- Wayne Dennison moves to approve the special permit as requested by the Applicant
- Judith Barrett seconds the motion
- All in favor WD, JB, ES, PT, BG

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

Moved by: WD

Seconded by: ES

Number in favor: 5

Number Opposed: 0

**Motion: It was moved, seconded and unanimously voted approve the special permit as requested by the applicant.**

Moved by: WD

Seconded by: JB

Number in favor: 5

Number Opposed: 0

## BOARD OF APPEALS — MINUTES

**Case No: 2021-18**

**Petitioner: Hadley**

**Address: 57 Shipyard Lane**

**Date: July 29, 2021 Time: 7:30 p.m.**

**(Continued from July 8, 2021)**

**Members present:** Wayne Dennison, Judith Barrett, Kathleen Muncey, Emmett Sheehan, Philip Thorn & Borys Gojnycz

**Members Voting:** Wayne Dennison, Judith Barrett, Kathleen Muncey, Emmett Sheehan & Philip Thorn

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

- Wayne Dennison re-opens the public hearing and asks Lauren Haché to read the public hearing notice and the case responses.
- Lauren Haché reads the public hearing notice, a memo from the Board of Health, a memo from Conservation, a memo from the Planning Board and a memo from the Design Review Board dated July 5, 2021.
- Wayne Dennison reads several letters in support from the neighbors and notes a letter from the Kelso's that they are taking apart the historical house and have land they are putting the home back together on. Lauren did anything else come in
- Lauren Haché states we did receive a revised plot plan dated July 8, 2021
- Wayne Dennison states so after the Design Review Board
- Kathleen Muncey states has lot coverage changed
- Lauren Haché states no, the notes stated a bulkhead was changed
- Warren Hadley states that is correct, very slight
- Wayne Dennison states great, thank you. Why don't we hear from the Applicants then
- Warren Hadley introduces himself as the owner and introduces his wife, Dawn Hadley as well. He also states Chris Leamy with Duxbury Construction is here also. Warren Hadley states that they bought the house in August of 2019 and that the current home is non-conforming. We designed to make the home, less non-conforming without affecting any views to our Neighbors and the water views. We did receive a one year delay from Historical Commission and we were happy with that and that the Kelso's are taking the building to save the historical home and rebuild it out on Standish shore. We are proposing to move further from the front setback and out of the right of way.
- Wayne Dennison state Chris can you do the math for us please



- Chris Leamy, the Agent for the Applicants, shares his screen and explains the calculations. We took the existing coverage, which was already over and added the 3% or in this case 195 square feet, we didn't do the more strict interpretation.
- Judith Barrett states you know Wayne, I hate to take more of Amy's time, but there has been a long standing disagreement on how to interpret and understand this section of the Bylaw. I happen to agree with the Applicant, but I think that we would benefit to have Town Counsel clarify this for all.
- Wayne Dennison agrees
- Discussion ensues over calculations
- Wayne Dennison states so what about the other aspect of the Design review Boards comments about the design of the house
- Warren Hadley states well, we like the design of the house, the neighbors all agree it is appealing and Julia Chuslo, the Architect is also on the call, so I respectfully disagree with that
- Julia Chuslo introduces herself and respectfully disagree with the Design Review Board
- Kathleen Muncey states if the math comes out and it's too much, could the house be reduced and have the same style
- Julia Chuslo states yes, it could be reduced
- Judith Barrett states we do have to go with the Bylaw and a member of the Zoning group tried to come up with a table for non-conforming lots gain some coverage without being too much for the neighborhood
- Wayne Dennison agrees and states Town Counsel should look at this for a guideline to use moving forward
- Judith Barrett states section 6 of 40A and what is the language
- Warren Hadley asks to share his screen and displays a spreadsheet showing coverage calculation comparisons of neighboring homes
- Wayne Dennison states I would like to deal with this expeditiously and we could certainly have Town Counsel get us an interpretation before our next hearing in September
- Judith Barrett agrees, as much as I dislike putting things off, I think this is important
- Wayne Dennison states do other Board Members have questions
- Emmett Sheehan states how many bedrooms
- Warren Hadley states five
- Borys Gojnycz states this is a beautiful design, I was down there yesterday and I was wondering how much taller is the new home
- Julia Chuslo states we have not measured the existing house, the new house is well below the height requirements
- Warren Hadley states I would guess 6-8 feet higher than existing
- Chris Leamy shares his screen with the building height table as it is defined in the zoning Bylaws, so up to 3 feet in increase
- Warren Hadley shares his screen of a google aerial view of their property
- Chris Leamy states if I can now share my screen, we have some diagrams on the site plan to show the neighbors and how the propose home relates to the neighbors
- Wayne Dennison states do we have any members of the public looking to weigh in here....
- Mark Drinkwater, Joselyn Lane, I would just like to add that the Hadley's have really gone out of their way to work with their neighbors all around.

- Wayne Dennison states thank you, anyone else. Alright, irrespective on the delay, I am in favor of Town Counsel looking at this. This is a very well-considered plan
- Dawn Hadley states I do want to thank you all, we have been trying to work hard and be respectful. We were hoping to not delay, so that construction isn't happening in the summer and effecting beach traffic
- Wayne Dennison states alright, well I am going to move to continue the public hearing to September 9, 2021 at 7:30pm
- Emmett Sheehan seconds
- All in favor WD, JB, KM, ES, BG

**Motion: It was moved, seconded and unanimously voted continue the public hearing to September 9, 2021 at 7:30pm.**

- Moved by: WD                      Seconded by: ES
- Number in favor: 5                  Number Opposed: 0