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DUXBURY, MASS.

TOWN OF DUXBURY



BOARD OF APPEALS

**DUXBURY BOARD OF APPEALS
MEETING MINUTES**

January 27, 2022 @ 7:30 p.m.

ATTENDANCE: Judith Barrett (Chair Pro Tem), Kathleen Muncey, Freeman Boynton Jr., Emmett Sheehan and Philip Thorn

Other persons present at the hearing: James Wasielewski, Building Commissioner, 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 for information about Duxbury programming including streaming on Duxbury You Tube, to watch replays and Video on Demand.

ZBA Case #2021-15, McKeag, 39 Shipyard Lane (CONT'D): *The Board voted unanimously (3-0) to continue the public hearing to March 10, 2022 at 7:30 p.m.*

ZBA Case #2021-34, Upham, 125 Abrams Hill (CONT'D): *The Board voted unanimously (4-0) to approve the Special Permit.*

ZBA Case #2021-37, Leonard, 69 Ocean Road North: *The Board voted unanimously (5-0) to grant the Special Permit, with conditions.*

ZBA Case #2021-38, Deady, 39 Ocean Road North: *The Board voted unanimously (5-0) to grant the Special Permit, with conditions.*

Administrative:

Emmett Sheehan makes a motion to approve the meeting minutes from December 2, 2021.

Philip Thorn seconds.

Kathleen Muncey makes a motion to adjourn. Emmett Sheehan seconds (5-0)

BOARD OF APPEALS MINUTES

Case No: 2021-34

Petitioner: Nowell Upham

Address: 125 Abrams Hill

Date: January 27, 2022 Time: 7:30 p.m.

**(Continued from December 9, 2021 and
November 18, 2021)**

Members present: Judith Barrett CPT), Kathleen Muncey, Emmett Sheehan & Philip Thorn

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

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

- Judith Barrett re-opens the public hearing and addresses the Applicant and Agent and states that there are only four Board Members available to sit on this case and that it is up to the Applicant to proceed at their risk of needing a unanimous vote or ask for a continuance
- Nowell Upham states thank you, we would like to proceed with the presentation. Mr. Upham explains that they went back to the drawing board and changed the proposal to make the garage more conforming than the pre-existing, non-conforming garage and explains the changes made after the previous meeting with the Board. The changes are a move towards greater conformance.
- Chris Leamy of Duxbury Construction shares his screen and explains the project, it's dimensions and setbacks, stating the setback will from 8.5 feet to 8.9 feet
- Kathleen Muncey states so the concrete pad behind the proposed garage, is that where the boat is going
- Nowell Upham states most likely yes, so it's not in the front yard
- Judith Barrett states do any other Board members have questions; Judith Barrett opens the hearing up for public comment
- Judith Barrett states is there a sense that we need more information
- Kathleen Muncey states I think we are ready to proceed
- Philip Thorn makes a motion to close the public hearing
- Emmett Sheehan seconds
- All in favor JB, PT, ES, KM
- Judith Barrett makes a motion to approve the special permit consistent with the plans presented this evening dated January 5, 2022
- Philip Thorn seconds
- All in favor JB, KM, ES, PT

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

Moved by: PT

Number in favor: 4

Seconded by: ES

Number opposed: 0

Motion: It was moved, seconded and voted to grant the special permit.

Moved by: JB

Number in favor: 4

Seconded by: PT

Number opposed: 0

BOARD OF APPEALS MINUTES

Case No: 2021-37

Petitioner: Taryn Leonard

Address: 69 Ocean Road North

Date: January 27, 2022 Time: 7:30 p.m.

Members present: Judith Barrett CPT), Kathleen Muncey, Emmett Sheehan, Freeman Boynton Jr. & Philip Thorn

Members Voting: Judith Barrett, Kathleen Muncey, Emmett Sheehan, Freeman Boynton Jr. & Philip Thorn

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

- Judith Barrett, Chair Pro Tem, opens the public hearing and reads the public hearing notice and states we have an application, certificate of elevation and a certified plot plan, a letter in support from Tony and Lisa Obey of 65 Ocean Rd. North, case response from the planning board, the design review board, a letter from Abutters the Sisoian's of 56 Ocean Rd. North in support and states I believe that is everything, Lauren
- Lauren Haché states we also received a case response memo from Tracy Mayo the Health Agent and a memo from the Conservation Administrator and includes the Orders of Conditions. Lastly, a letter in support from Donald Norris of 53 Ocean Rd. North.
- Judith Barrett invites the Agent for the Applicant to present
- Attorney Jeff De Lisi with the Law firm Ohrenberger, De Lisi and Harris, LLP. Mr. De Lisi and shares his screen showing existing photos of the home and explains the net difference here is to increase the stability and height of the piers under the house by about 5 feet. The height of the dwelling, measuring from the average grade is currently about 18 feet and the proposed new height will be a little less than 23 ½ feet. Nothing else will change. The only other changes are to be made to the exterior steps, which would increase the exterior deck making it 2 feet wider.
- Judith Barrett asks if the Board Members have questions
- Emmett Sheehan sates so you are raising the existing house, not razing it
- Jeff Si Lisi states correct
- Jim Wasielewski states the stairs that are increasing on the right hand side of the house is due to the elevation, is that existing deck staying the same size or increasing
- Jeff Di Lisi requests to share his screen and explains that the deck on the rear of the house is increasing slightly
- Lauren Haché shares her screen to pull up the certified plot plan

- Jim Wasielewski states it is the landing on the right hand side, front part of the house about 8 feet long, is that getting bigger? Is the landing itself getting bigger
- Jeff Di Lisi states the DRB had some questions about this as well. There are stairs at the front and rear of the home, it is uncertain to me if this is expanding and I don't want to speculate. I don't know if the landing will be widened or not.
- Freeman Boynton Jr states the plan says the 6.4 foot setback isn't changing
- Jim Wasielewski states I am curious about whether that landing currently exists on that side
- Philip Thorn states it does appear that the landing does exist
- Jim Wasielewski states ok, and notes the photo with the existing landing
- Judith Barrett asks if anyone else has questions
- Kathleen Muncey states what is happening between the house and the seawall
- Jeff Di Lisi states the deck in the rear of the house is being extended about 2 ½ feet towards the wall, slightly wider deck that is all
- Kathleen Muncey states are there any setbacks that need to be observed at that area, because the property line is probably the water
- Jeff Di Lisi states in the application materials, the record plan
- Jim Wasielewski states from the property line to the new dimension of the proposed deck is 20.9 feet, so it's fine
- Kathleen Muncey states ok, so we're good
- Judith Barrett states anyone from the public to comment
- Kathleen Muncey states it looks like a nice plan to me
- Kathleen Muncey makes a motion to close the public hearing
- Emmett Sheehan seconds
- JB, KM, FB, ES, PT
- Judith Barrett suggest to makes a motion to approve the special permit as requested
- Freeman Boynton Jr. states I think we should condition it that the deck and the landing and the stairs don't get any closer to the lot lines than what is existing and makes a motion
- Emmett Sheehan seconds
- All in favor JB, KM, FB, ES, PT

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

Moved by: KM

Number in favor: 5

Seconded by: ES

Number opposed: 0

Motion: It was moved, seconded and voted to grant the special permit, with conditions.

Moved by: FB

Number in favor: 5

Seconded by: ES

Number opposed: 0

BOARD OF APPEALS MINUTES

Case No: 2021-38

Petitioner: Jeffrey and Sarah Deady

Address: 39 Ocean Road North

Date: January 27, 2022 Time: 7:30 p.m.

Members present: Judith Barrett CPT), Kathleen Muncey, Emmett Sheehan, Freeman Boynton Jr. & Philip Thorn

Members Voting: Judith Barrett, Kathleen Muncey, Emmett Sheehan, Freeman Boynton Jr. & Philip Thorn

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

- Judith Barrett, Chair Pro Tem, opens the public hearing and asks Kathy Muncey to read the public hearing notice.
- Judith Barrett states we have an application, photos and a plot plan. We have comments from the Board of Health, the Planning Board and the Design Review Board, Lauren did I miss anything
- Lauren Haché states we did receive a memo from Joe Grady, Conservation Administrator
- Jeffrey Deady introduces himself and explains the project, noting the 2018 Nor'easter damaged the ocean side two-story deck and now that the seawall has been raised, they would like to rebuild the decks.
- Judith Barrett asks if the Board have questions
- Freeman Boynton Jr. states why are we here is all they want to do is rebuild and continues to ask for the plan to show the difference of the previous deck and the proposed
- Jeff Deady shares photos showing what he would like to rebuild and what was in existence pre-storm. Mr. Deady states that he was told that this would increase the volume
- Kathleen Muncey states so you're expanding the railing
- Jeff Deady states that is correct
- Judith Barrett states I don't understand why this needs a special permit
- Kathleen Muncey states were they gone for more than two years
- Jeff Deady states they were, but I was told because of the seawall construction, I was told that was fine to proceed and it was noted in the applications for when I was rebuilding the home after the storm
- Kathleen Muncey states were they completely gone or...
- Jeff Deady states they were hanging off, so we tore them off when we repaired the house
- Emmett Sheehan states will you be screening the lower level in

- Jeff Deady states the upper deck had privacy walls on three sides and we are proposing to put privacy walls on the sides and wire across the front on the top and bottom, no screens. It always had removable screens but they won't match up anyways and I don't plan to screen it in
- Jim Wasielewski states I can speak to why I felt this needed to come before the board. The existing decks with the second floor wasn't encroaching on any setback but the new proposed idea would take that use and extend it over in to the non-conformity of being in the setback. My understanding was that it was going to use some privacy screening and used as space, which is why I felt it needed to be in front of the board.
- Judith Barrett states thank you, are there any questions from the Board before I open it up
- Freeman Boynton Jr. states I am curious if Mr. Deady has any idea why, this is on the same road as the previous case, that plan had the top of the seawall at 19.3 feet, and this one says the top of the wall is 13 feet. Did the seawall not get updated in front of this house
- Jeff Deady states no, it was repaired and built up here as well. They added about 5 feet so I am not sure where they got that plan from
- Freeman Boynton Jr. states the plan is dated December 2021 and they note the first floor elevation is 14.5 feet
- Jeff Deady states I believe the old wall was 19 feet and the new wall is 24 feet and states he will get the plan fixed, but we are not looking to change any grades on the house
- Freeman Boynton Jr. states how far below the seawall do you think the grade is of the finished first floor
- Jeff Deady states roughly 5 ½ feet from the top of the new wall from the first floor elevation
- Freeman Boynton Jr. states so you can't see the water from your first floor
- Jeff Deady states nope, not at all
- Freeman Boynton Jr. states thank you, I was just curious, I have no issues with this application
- Judith Barrett states is there anyone from the public looking to address the Board about this application
- Kathleen Muncey makes a motion to close the public hearing
- Philip Thorns seconds
- All in favor JB, KM, FB, ES, PT
- Judith Barrett asks the Board if they have any discussion
- Jim Wasielewski states I think it would make sense to have a correct plot plan with the correct elevations
- Jeff Deady agrees
- Emmett Sheehan makes a motion to approve the special permit conditioned on the plot plan submitted with the Building Department application that shows appropriate seawall and grade elevations.

- Philip Thorn seconds
- All in favor JB, KM, FB, ES, PT

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

Moved by: KM

Number in favor: 5

Seconded by: PT

Number opposed: 0

Motion: It was moved, seconded and voted to grant the special permit, with conditions.

Moved by: ES

Number in favor: 5

Seconded by: PT

Number opposed: 0