



TOWN OF DUXBURY
BOARD OF APPEALS

DUXBURY BOARD OF APPEALS
MEETING MINUTES
February 22, 2024 @ 7:30 p.m.

TOWN CLERK
2024 APR 26 AM 9:56
DUXBURY, MASS.

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

Other persons present at the hearing: Lauren Haché, Principal Assistant

CALL TO ORDER: Chair Wayne Dennison called the meeting to order and reads the Governor's Preamble: Pursuant to Chapter 2 of the Acts of 2023, this meeting will be conducted in person and, as a courtesy, via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public and board members, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless required by law. Additionally, the meeting will be broadcast live, in real time, via the Duxbury Government Access Channels – **Verizon 39 or Comcast 9**. 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.

AGENDA

ZBA Case 2024-03, Pine Woods Animal Hospital, 612 Congress Street: *The Board voted unanimously (5-0) to grant a withdraw without prejudice.*

ZBA Case 2024-04, Badeau, 18 Josselyn Avenue: *The Board voted to continue the public hearing to March 14, 2024*

ZBA Case 2024-05, Larkin, 3 Pine Point Place: *The board voted 5-0 to approve the special permit*

ADMINISTRATIVE

A. Approve Meeting Minutes

Wayne Dennison makes a motion to adjourn. Philip Thorn seconds.

BOARD OF APPEALS MINUTES

Case No: 2024-04

Petitioner: James and Lisa Badeau

Address: 18 Josselyn Avenue

Date: February 22, 2024 Time: 7:30 p.m.

Members present: Wayne Dennison, Philip Thorn, Emmett Sheehan, Judith Barrett and Borys Gojnycz

Members Voting: Wayne Dennison, Philip Thorn, Emmett Sheehan, Judith Barrett and Borys Gojnycz

Other persons present at the hearing: Lauren Haché, Principal Assistant

- Wayne Dennison opens the public hearing and reads the hearing notice and contents of the application. Mr. Dennison reads the case response from the Board of Health, the Design Review Board and the Planning Board and letters both in support and with concerns from neighbors and a letter
- Jessica Williams presents to the Board the proposal to Board and states we are razing a pre-existing, non-conforming garage and rebuilding in the same footprint, which cleaning up some dimensions and is adding a second story space. It's a one car garage with an additional second level loft space-staying within the roofline and a 4-foot knee wall. Ms. Williams continues to explain the design plans and notes that the view from the back does not have windows, so that there are no windows looking down or into the neighbor's yard. I was able to speak with Mr. Kaszynski, the abutter to the rear and we discussed the plans and he granted me access to their property to take some photos which I will share now. Ms. Williams continues with sun studies that she put together with a program based on times of years and how shadows will be cast.
- Wayne Dennison states my question is with regard to the letter from Jim Wasielewski which states there is a slight increase of 0.3 feet from the westerly lot line, I am confused by that
- Jessica Williams states I believe he meant more conforming slightly
- Wayne Dennison states ok, I understand
- Judith Barrett states an increase in conformity
- Wayne Dennison states so the other part of Jim's letter is about the 15% rule and this property is already over 15% so it is already non-compliant.
- Emmett Sheehan states will this be a full foundation, that will be tricky 18 inches from the lot line
- Jessica Williams that is what we are proposing, the builder has indicated he can do this
- The Board thanks Ms. Williams for the very useful tool that shows the shadows
- Wayne Dennison opens the meeting to the public
- Tom Phipps, 23 Josselyn Ave., states the building shadow illustrations are great but it should also be considered that there are quite a few trees in the area as well that cast shadows
- Steve Kaszynski, 11 Friendship Lane, expresses the concern as the house that is directly behind/abutting the property. The Badeau's are great neighbors, but unfortunately the garage is very close to us. Mr. Kaszynski shares his screen and shows photos of the

subject property and proximity to his home. Mr. Kaszynski asks the Board to put themselves in their position and understand the detrimental impacts this may have to their property

- Jessica Williams states I can appreciate what Mr. Kaszynski has stated, the opportunity to adjust or have space does not restrict us from doing something without a special permit. We would like to build on top of the existing footprint and the slope of the roof is slipping away from his property, so we are really thinking this design through to make this as considerate as possible.
- Wayne Dennison states how big is the eave
- Jessica Williams states a couple of inches
- Wayne Dennison states what about the point about the gutters
- Jessica Williams states we will absolutely have gutters
- Wayne Dennison states is there anyone else; are there other questions from the Board
- Judith Barrett states this is a non-conforming property, so we have two findings to make here. One; does the proposed project increase the non-conformity of the structure and the second, will the proposed change be substantially more detrimental to the neighborhood. I think we should start there.
- Emmett Sheehan it is to Mr. Kaszynski
- Wayne Dennison states should we close the hearing
- Judith Barrett states I think we should sort this out; they are decreasing the non-conformity a bit, I think the issue is the substantial detriment. I don't think I need any more information.
- Emmett Sheehan makes a motion to close the public hearing
- Wayne Dennison seconds
- All in favor WD, PT, ES, JB, BG
- Wayne Dennison states ok, the hearing is closed. I don't see how this increases the non-conforming nature given the nature is setback nonconformity. The other non-conformity was lot coverage, but the lot coverage addition is minimal and there is a minimal improvement. I don't think this is substantially more non-conforming.
- Judith Barrett agrees
- Philip Thorn also agrees
- Wayne Dennison states so it comes down to whether this is a substantial detriment
- Judith Barrett states if there is no substantial increase in the non-conformity, then our work is done. Judith Barrett continues to read the section of the bylaw.
- Wayne Dennison states so we have to determine any increasing non-conformity, and states there is an increase in lot coverage
- Judith Barrett states so then we have to determine the detriment to the neighborhood
- Wayne Dennison states Jim's memo does speak to the 15% rule; I am going to be candid here, this is a very difficult case for me, because it is a very nicely designed project, but there are real concerns.
- Phil Thorn agrees and explains the detriment and how difficult this position is putting the Board in
- Judith Barrett states is it substantially more detrimental

- Philip Thorn states my opinion, I view it as more detrimental to the neighborhood
- Wayne Dennison states so you need 4 of the 5 votes in favor, would you like a straw poll to see where the Board stands
- Emmett Sheehan states I would like to do a site visit; anybody feel that way
- Wayne Dennison states I actually went out there yesterday with permission from the Kaszynski's
- Emmett Sheehan I really would like to do that, perhaps pushing the hearing to allow for a site visit
- Jessica Williams states we would prefer to have a site visit
- Wayne Dennison states we will have to re-open the hearing in favor of a site visit
- Lauren Haché states March 14 and 28 are open
- Wayne Dennison moves to re-open the public hearing
- Emmett Sheehan seconds
- All in favor WD, PT, ES, BG, JB
- Philip Thorn states do we need permission from Mr. Kaszynski's permission to gain access to the property
- Steve Kaszynski states that is no problem
- Wayne Dennison states let's arrange a site visit between now and March 14th
- Emmett Sheehan states why don't we pop by informally
- Judith Barrett states if we do a formal site visit, we have to be careful not to speak or take any testimony
- Wayne Dennison states lets each commit to go by there informally to view the property and that way we have no issues with open meeting law or testimony. I move to continue the public hearing to March 14, 2024
- Emmett Sheehan seconds
- All in favor WD, ES, PT, JB, BG

Motion: It was moved, seconded and voted (5-0) to continue the public hearing to March 14, 2024.

Moved by: WD

Seconded by: ES

Number in favor: 5

Number opposed: 0

BOARD OF APPEALS MINUTES

Case No: 2024-05

Petitioner: Robert and Lee Larkin

Address: 3 Pine Point Place

Date: February 22, 2024 Time: 7:30 p.m.

Members present: Wayne Dennison, Philip Thorn, Freeman Boynton Jr., Judith Barrett and Borys Gojnycz

Members Voting: Wayne Dennison, Philip Thorn, Freeman Boynton Jr., Judith Barrett and Borys Gojnycz

Other persons present at the hearing: Lauren Haché, Principal Assistant

- Wayne Dennison opens the public hearing and reads the public hearing notice into the record. Mr. Dennison continues and reads the case response from Conservation, Board of Health, Design Review Board and the Planning Board.
- Paul Brogna, Seacoast Engineers, presents the proposal to the board and states the pre-existing garage was destroyed by fire in December of 2022. We are proposing to rebuild the garage to the current flood zone requirements raising the garage on piles.
- Wayne Dennison states so the Bylaw states you can rebuild within 3 years when there is an act of God.
- Paul Brogna states yes, we are proposing to put this on an open pile foundation. Same garage, same location, same dimensions. The square footage slightly and the volume will go up to 11.2% as there is a design to add a second floor
- Freeman Boynton Jr states but they are still conforming
- Paul Brogna states we are 7 feet from the lot line
- Freeman Boynton Jr states but that is by right in this instance
- Wayne Dennison states I am not convinced you need the special permit here
- Jennifer Birnstein, the architect, explains the design and states the new garage will fit in with the area and we tried to be not any more impactful than the existing building was. The upstairs will continue the use that was existing, it will be an exercise room and then a one bay garage by ramp to get up there.
- Wayne Dennison states does anyone have any further questions; anyone from the public; Wayne Dennison moves to close the public hearing
- Philip Thorn second
- All in favor WD, FB, PT, JB, BG
- Wayne Dennison states I am not sure they need a special permit, but I will move to approve the special permit
- Freeman Boynton Jr. seconds
- All in favor WD, FB, JB, BG, PT

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 and seconded and voted (5-0) to approve the special permit.

Moved by: WD

Seconded by: FB

Number in favor: 5

Number opposed: 0