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DUXBURY, MASS.

TOWN OF DUXBURY



BOARD OF APPEALS

DUXBURY BOARD OF APPEALS

MEETING MINUTES

July 28, 2022 @ 7:30 p.m.

ATTENDANCE: Wayne Dennison, Judith Barrett, Kathleen Muncey, Emmett Sheehan, Freeman Boynton Jr., Philip Thorn and Tanya Trevisan

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 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 #2021-28, Husk, 160 Marshall Street (CONT'D): *The Board voted 3-2 to continue the public hearing to September 8, 2022, with conditions.*

ZBA Case #2022-14, Donadio, 59 Standish Street: *The Board voted unanimously (5-0) to approve the special permit as requested.*

Kathleen Muncey makes a motion to approve the minutes from May 12, 2022. Judith Barrett seconds

Emmett Sheehan moves to approve the minutes from June 9, 2022. Freeman Boynton Jr. seconds

Tanya Trevisan moves to approve the minutes from June 14, 2022. Philip Thorn seconds

Judith Barrett moves to approve the minutes from July 13, 2022. Freeman Boynton Jr. seconds

Kathleen Muncey moves to approve the minutes from July 20, 2022. Judith Barrett seconds

Kathleen Muncey makes a motion to adjourn. Freeman Boynton Jr. seconds (5-0)

BOARD OF APPEALS MINUTES

Case No: 2021-28

Petitioner: Benjamin and Charles Husk

Address: 160 Marshall Street

Date: July 28, 2022 at 7:30 p.m.

(Continued from May, 26, 2022, March 24, 2022, January 13, 2022 & October 14, 2021)

Members present: Wayne Dennison, Judith Barrett, Kathleen Muncey, Freeman Boynton Jr., Emmett Sheehan, Philip Thorn & Tanya Trevisan

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

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

- Wayne Dennison states so, our special permit application 906.2 of the bylaw states that the proposal's benefit to the town will outweigh any adverse effects, is it your position that these outstanding fines have no bearing on this proposal
- Chris Davison states exactly; I have also pointed out to the ZBA that in this town there is only one Bed & Breakfast and that there are over 45 short term rentals registered with the state and they have not come before the ZBA and my client has
- Wayne Dennison states so is your client engaging in short term rentals that are known to be illegal
- Chris Davidson states I won't answer that, this is beyond the scope of this hearing
- Wayne Dennison states section 906.2.3B states whether neighborhood compatibility character has been considerably treated, whether your client is violating the bylaw doesn't matter to that issue is your contention
- Chris Davidson states my contention involves traffic and the area
- Wayne Dennison states does the board have questions relative to the continuance
- Emmett Sheehan states I think we need to move forward tonight
- Judith Barrett and Tanya Trevisan agree
- Wayne Dennison states we are going forward, the request to continue is denied; Lauren what have we received since the last hearing
- Lauren Haché reads correspondence from Attorney Uitti, July 21st from the Building Commissioner, two letters from the Applicants, there are eight letters in opposition or requesting to remove previous support and ten letters in support
- Cleonice Husk, 160 Marshall Street, the Applicant, speaks to the board explaining her desire to operate a bed and breakfast and explains the defamation she feels the neighbors are exhibiting by creating a website against this application.
- Wayne Dennison states anyone in support, please speak first at the microphone
- Carol Merry, 290 Kings Town Way, I was born in this town in 1942 and my father was the chairman of the board of appeals and I know the husks, I know their parents and grandparents. I also know a lot of folks on Standish Shores and you know, growing up here, people were kind.

People were good to their neighbors and I feel very badly for what these people have gone through. Doing the right thing and the kind thing is important.

- Art Fallon, 105 Marshall Street, we have had 5 children in our house growing up and sadly, when family came to visit, we have no options for lodging in town, so they would have to go to Plymouth. I think air bnb is great, I use it all over the world. I am not privy to a lot of these disputes, but the simple fact is that I am in support. I live right across the bridge from this property and I have never heard any thing loud or bad from there.
- Susan Fallon, 105 Marshall Street, states I am his other half and our youngest son is Capt'n Mike's tiki boat here in town and CJ has been wonderful with helping Mike with the boat and guiding him.
- Jennifer Bylo, resident for 19 years in town, speaks to the on-going issues with inclusion. Ms. Bylo lived on the property while in between home sales and move in time. The property is beautiful. In all of those 30 days, there was one time where one car had to make way for another car on the shared way. This was a genuine hospitality, this is Cleo's background with hospitality. There is no noise, this is a family compound to enjoy the solitude of the surroundings. Duxbury has a stigma, that we are not inclusive and don't allow for things one-offish. My kids all went through the school system, my kids don't want to live in Duxbury. I am the investor buying out Benjamin, I am that dedicated to this property. CJ's history here, with the institution of the rowing at the high school, has been wonderful for this town.
- Matt Koenig, 100 Eagles Nest Road, I admit is not a direct abutter to the property, but I regularly walk in that area and I have never had any experience from any of the properties in that area. The air bnb scenario is actually a lot less risky of a situation for the abutters over a short- or long-term rental without the bnb. I honestly feel this is a matter of personal property rights, but I know I support for what CJ is trying to do.
- Irani Barranon, 95 Pine Hill Avenue, I have not had the pleasure of meeting the applicants, for me I am in support here with regard to the air bnb situation. What are the concerns of the board with regard to the neighborhoods compatibility
- Wayne Dennison explains the criteria of the Bylaw and that this topic is one of those items
- Irani Barranon continues there are over 660 thousand Airbnb's in the US. I have children and a shared driveway. I wouldn't be happy about it, but it is not a reason for me to fight against it. It is the benefit of the owners to screen their guests, there are also restrictions that can be installed through Airbnb to limit things like amount of people, number of cars, no pets etc. There are so many housing issues in this world.
- Wayne Dennison states does anyone remotely wish to speak in support; Mr. Dennison continues any one looking to speak in concern
- Attorney David Uitti speaks in opposition of the proposal stating that the applicants continue to illegally rent the premises on a short-term basis. Mr. Uitti also states I would also like to state as a resident of Duxbury, with the insinuations and such of racism being a factor in this, I want to say clearly personally I celebrate the fact that there is more diversity with Mrs. Husk living in town and I know race is not a factor at all with this case. Kat Hyer at Pierce Atwood for Benjamin Husk and that nothing has changed with Mr. Husk's position on this matter. I am asking the Board to deny this application
- Dr. Benjamin Cronin, 17 Pill Hill Lane, I became interested in this case due to social media and I actually did my doctoral dissertation on the commons of Duxbury, so. Both the common law and

the early town meetings both are very clear that property rights are not absolute but bound by the necessity of not invading neighbors rights. Also, a paper by Kyle Baron from 2017, for every 1% increase in airbnb's there is a .018 increase in rent. I did grow up here, I did go to high school here and I was made fun of by the yacht club kids for not the best clothes. I understand the desire for inclusivity. I feel that airbnb's do the opposite and raise prices.

- Jenny Rice, 154 Marshall Street, the first house on the right of way leading to 160 Marshall Street. Ms. Rice explains the reasoning for the objection. All five homeowners on the right of way are against this proposal. This is a high capacity bed and breakfast that can support 20 people. We do not want a commercial b&b in our small residential community especially run by hostile owners who flout Duxbury Bylaws. This would generate a lot of traffic down out little lane, driving too fast. We are asking the ZBA to deny this application.
- Wayne Dennison states we did have a site visit and I have a few questions. This property is breathtaking, I was a little taken aback because of the number of structures on the property and did not have a full understanding until I went there on where the proposed b&b will be. Will it be in the former chapel or church on the property, correct?
- Chris Davidson states yes, the main house
- Wayne Dennison states but that structure was originally built as a chapel or church
- Chris Davidson states perhaps, it was
- Wayne Dennison states so the definition in the Bylaw states that the b&b must be originally built as a dwelling. So, this won't comply with the Bylaw if it wasn't built as a dwelling
- Chris Davidson states that is a literal interpretation; this has been used as a house since the 30's or 40's, a residence
- Wayne Dennison states I understand, but the use of original in the Bylaw
- Chris Davidson states I can't answer that, I didn't do a title search from inception
- Charles Husk states that was built as a retreat center for people to live in by the Lutheran Church with a kitchen, bedrooms etc.
- Wayne Dennison states we have a series of regulations that bind us and one of the regulations states that a b&b must be a structure originally built as a dwelling. That is all I am trying to understand. A dwelling is a building or portion thereof is a portion designed for residency, so from what CJ is saying this may very well be
- Chris Davidson states it is a dwelling
- William Zachmann, 160 Standish Street, I think this is ridiculous and extremely distasteful on behalf of the childish, petty neighbors.
- Wayne Dennison discusses options for moving forward and perhaps a denial and option for the applicant to withdraw the application
- Recess for the applicants and Agent
- The Board gives their straw pole answers and discussion continues about the Board issuing a heavily conditioned special permit which would ultimately have more control than what is existing now.
- Wayne Dennison states I would suggest that we have the Applicant try to impose some conditions that they could have in agreement with the neighborhood. I would encourage people to talk to one another and engage in reasonable conversation. If the applicant comes back with conditions the neighborhood hates, then I don't think this would work. I would be inclined to issue a continuance

- Judith Barrett states one more
- Philip Thorn states I think that there ought to be a condition imposed on that continuance
- Wayne Dennison states that the applicant should agree to abide by the enforcement orders in place with regard to short term rentals
- Cleonice Husk speaks again in affirmation of what is and what isn't happening on the property and with the neighbors
- Wayne Dennison states we do not get involved with property rights
- CJ Husk states we want to negotiate and get along with a controlled way
- Attorney Uitti speaks against the application again and states please deny this application tonight. You are turning my Clients into the cops of this neighborhood
- Wayne Dennison states if the Applicant agrees not to rent any portion of the premises for less than 30 days and will engage in an effort to determine what special permit conditions might be acceptable, then perhaps we can proceed on September 8th
- Wayne Dennison moves to continue to September 8th pursuant to that condition
- Judith Barrett states no occupancy less than 30 days, one guest at a time and their guests in one building
- Wayne Dennison moves to continue the case to September 8, 2022 with the conditions that there be no rental of any portion of the premises less than 30 days and would suggest that the applicant propose, before the next hearing, a set of conditions under which a special permit might be granted. To the extent that they wish engage with their neighbors the conditions, would be useful.
- Tanya Trevisan states can we have a deadline for submittals 7 days ahead of the hearing
- Lauren Haché states September 1st
- Judith Barrett states no more extensions after this
- Judith Barrett seconds
- All in favor Wayne Dennison, Judith Barrett, Freeman Boynton Jr.
- Nay Phil Thorn and Emmett Sheehan

Motion: It was moved, seconded and unanimously voted to close the public hearing to September 8, 2022.

Moved by: WD

Seconded by: JB

Number in favor: 3

Number opposed: 2

BOARD OF APPEALS MINUTES

Case No: 2022-14

Petitioner: Lisa and Marco Donadio

Address: 59 Standish Street

Date: July 28, 2022 at 7:30 p.m.

Members present: Wayne Dennison, Judith Barrett, Kathleen Muncey, Emmett Sheehan, Philip Thorn & Tanya Trevisan

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

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

- Wayne Dennison opens the public hearing and reads the hearing notice and board case responses.
- Freeman Boynton Jr recuses
- Lisa Donadio states the apartment is attached to the house, there is not internal access
- Kathy Muncey states let's go over the conditions, is it less than 800 square feet
- Lisa Donadio states 690 square feet
- Judith Barrett states parking sufficient; the house must be at least 10 years old
- Wayne Dennison states when was the house built
- Lisa Donadio states 1796
- Kathy Muncey states no additions or alterations within one year of application
- Lisa Donadio states the barn was started in 2020 and the permit was closed in November of 2021
- Judith Barrett states issuance of building permit
- Lisa Donadio states we pulled the permit to finish the interior
- Wayne Dennison states when did the barn permit close
- Lisa Donadio states Lauren do you have that date
- Lauren Haché states the permit was closed in December 2020 because a certificate of occupancy was granted on February 2, 2021.
- Wayne Dennison states great, you are good. Is there anyone else that would like to weigh in
- Wayne Dennison Makes a motion to close the public hearing
- Judith Barrett Seconds
- All in favor WD, JB, KM, PT, ES
- Wayne Dennison moves to approve the special permit as submitted
- Judith Barrett seconds
- All in favor WD, JB, ES, KM, PT

Motion: It was moved, seconded and unanimously voted to 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 to approve the special permit as submitted.

Moved by: WD

Seconded by: JB

Number in favor: 5

Number opposed: 0