



TOWN CLERK  
2018 OCT -1 PM 12:16  
DUXBURY, MASS.

# TOWN OF DUXBURY

## BOARD OF APPEALS

### DUXBURY BOARD OF APPEALS MEETING MINUTES July 26, 2018 @ 7:30 p.m.

**ATTENDANCE:** Judith Barrett, Dimitri Theodossiou, Freeman Boynton, Jr. & Emmett Sheehan

**CALL TO ORDER:** Judith Barrett called the meeting to order.

#### *ADMINISTRATIVE*

**Transfer of Special Permit # 10-06, Poole, 134 Autumn Avenue:** *The Board administratively agreed to transfer the special permit. All in favor (4-0).*

**Destenaves, 14 Simmons Drive:** *The Board moved approve the application. All in favor (4-0).*

*Freeman Boynton, Jr. administratively moves to close the meeting for 134 Autumn Avenue. Emmett Sheehan seconds. All in favor (4-0).*

*The Board administratively agreed to transfer the special permit for 134 Autumn Avenue. All in favor (4-0).*

*Judith Barrett administratively moves to approve the application for a pool at the Cluster Development of Weston Farms. Emmett Sheehan seconds. All in favor (45-0).*

*Judith Barrett makes a motion to approve the meeting minutes of May 10, 2018. Emmett Sheehan seconds. All in favor (4-0).*

*Judith Barrett makes a motion to approve the meeting minutes of June 14, 2018. Emmett Sheehan seconds. All in favor (4-0).*

*Freeman Boynton, Jr. makes a motion to adjourn the meeting of July 26, 2018. Dimitri Theodossiou seconds. All in favor (4-0).*

## **BOARD OF APPEALS — MINUTES**

**Applicant: Elizabeth Poole**

**Property Address: 134 Autumn Avenue**

**Case No: 2010-06**

**Date: July 26, 2018 Time: 7:30 p.m.**

**Members present:** Judith Barrett, Dimitri Theodossiou, Freeman Boynton, Jr. & Emmett Sheehan

- Judith Barrett called the meeting to order and the Board briefly discussed the transfer request.
- Mike Brust, attorney for Elizabeth Poole the owner of 134 Autumn Ave, identifies himself, then states that she is looking for a transfer of a granted special permit for an accessory apartment that was built. He explains that she is selling her home and is looking to have the transfer in place prior to the closing as the buyer, who is buying with a VA loan is wanting confirmation. Mr. Brust states that with a VA loan one of the requirements is that the home is owner occupied as is with the home occupation permits and he added that the buyer would like to get his child enrolled in kindergarten.
- Judith Barrett states she has no issue with the transfer.
- Dimitri Theodossiou states that this is built already, correct. Yes.
- Freeman Boynton, Jr. asks if special permits expire.
- Judith Barrett states that they do if we set a limit on them, but I don't think there is here.
- Judith Barrett and Freeman Boynton, Jr. discuss why the need for a special permit.
- Mike Brust states that this special permit doesn't stay with the property it is specific to the owner, so should this buyer sell in the future he/she would have to come back for another transfer request and meet the same requirements.
- Judith Barrett states that it expires if it is not activated, but it appears that this permit is tied to the owner.
- Emmett Sheehan asks why when the bylaw was enacted why did this get written this way.
- Judith Barrett states that it is not tied to family occupancy and there are very few restrictions on it.
- Emmett Sheehan asks if you can get from a to b.
- Judith Barrett states that the Board doesn't have to limit it to the owner only, but the bylaw may require that.
- Dimitri Theodossiou asks if another buyer wants to sell it later, can we remove that part of the permit.
- Judith Barrett states we can't change this decision; they'd have to come back for a new special permit.
- Mike Brust states that keeping it owner occupied gives you a little bit of a leash on it and then the new owner would have to come back for review.
- Judith Barrett asks Mike Brust if a memo confirming this will suffice. Yes.
- The Board unanimously agrees that the transfer makes sense.
- Freeman Boynton, Jr. makes a motion to close. Emmett Sheehan seconds. All in favor (4-0).
- 

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

Moved by: FB

Seconded by: ES

Number in favor: 4

Number opposed: 0

## BOARD OF APPEALS — MINUTES

**Applicant:** Destenaves  
**Property Address:** 14 Simmons Drive  
**Case No:** n/a  
**Date:** July 26, 2018

**Members present:** Judith Barrett, Dimitri Theodossiou, Freeman Boynton, Jr. & Emmett Sheehan

- Judith Barrett asks if anyone is there to speak regarding this application.
- Benoit Destenaves states that he is there to request a pool at his property and discusses with the Board, stating that the building department said they needed the approval of the board since his home is in Weston Farms.
- Freeman Boynton, Jr. states he needs the Homeowner's Association approval stating it meets their bylaws.
- Benoit Destenaves states that we have that, we got a letter from the HOA.
- Freeman Boynton, Jr. states that it doesn't say that it meets the HOA's bylaws.
- Judith Barrett reads the requirements.
- Freeman & Dimitri discuss how they would know what the HOA bylaws are.
- Emmett Sheehan states that whomever wrote the letter wrote it odd.
- Freeman points out that someone has to determine if it meets the bylaws.
- Judith Barrett agrees, stating that it is not a zoning matter at that point.
- Dimitri Theodossiou asks if there are any requirements like a fence, etc.
- The Board discusses that there are bylaws for pools from the Town but the Town enforces their bylaws not the HOA's.
- Dimitri Theodossiou states that the Design Review Board's memo approves it and suggests that they approve it subject to compliance with the HOA bylaws.
- Judith Barrett states that from a zoning point of view, I don't see a problem with this.
- Freeman Boynton, Jr. states that they could have the Applicant write a letter stating it complies with the bylaws.
- Benoit Destenaves states that if he was in violation and tried to sell, that is when it might be an issue.
- Judith Barrett asks if there is an example of where something like this might violate an HOA agreement.
- Freeman Boynton, Jr. states that who knows, their bylaw might say they can't have a pool visible from the street or a certain size...
- Benoit Destenaves & Judith Barrett discuss that the HOA has seen the plan.
- Freeman Boynton, Jr. states they wrote subject to it meeting the HOA bylaws, they should've said it meets the HOA bylaws.
- Emmett Sheehan states that it may be because it isn't built yet; we've all seen plans change.
- Freeman Boynton, Jr. states that if he wants to write a letter stating his plans complies with HOA that'll work.
- Benoit Destenaves states he can go back to the HOA and ask for another approval letter.
- The Board discusses that he can give the letter to Scott with the building permit application.
- Dimitri Theodossiou asks if there is anything from the Health Department. He and Freeman discuss the details of the pool plan.
- Judith Barrett discusses with Freeman if he'd like a condition on the approval.

- The Board and Benoit Destenaves agree that he will ask for an updated letter.
- Judith Barrett moves that they determine it doesn't require a special permit, it's an accessory use and it is not inconsistent with the special permit, provided that the applicant will provide a letter to the building inspector indicating that the project as proposed complies with the HOA's bylaws. Emmett Sheehan seconds. All in favor.

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

Moved by: JB

Seconded by: ES

Number in favor: 4

Number opposed: 0