



TOWN OF DUXBURY
BOARD OF APPEALS

DUXBURY BOARD OF APPEALS
MEETING MINUTES
November 27, 2023 @ 7:00 p.m.

TOWN CLERK
2024 JAN 12 AM 8:58
DUXBURY, MASS.

ATTENDANCE: Wayne Dennison, Judith Barrett, Philip Thorn, Emmett Sheehan and Borys Gojnycz
Other persons present at the hearing: Amy Kwezell, Town Counsel, James Wasielewski, Director of Municipal Services & Lauren Haché, Principal Assistant

CALL TO ORDER: Philip Thorn 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 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.

AGENDA

ZBA Case #2023-09, The Winsor at Millbrook Village, 50 Railroad Avenue, Comprehensive Permit Application (CONT'D): *The Board voted to continue the public hearing to December 14, 2023.*

ZBA Case # ZBA Case #2023-15, Husk, 160 Marshall Street (CONT'D): *The Board voted (5-0) to deny the special permit.*

Wayne Dennison makes a motion to adjourn. Emmett Sheehan seconds.

BOARD OF APPEALS MINUTES

Case No: 2023-15

Petitioner: Charles Husk

Address: 160 Marshall Street

Date: November 27, 2023 Time: 7:30 p.m.

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

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

Other persons present at the hearing: Amy Kwesell, Town Counsel, James Wasielewski, Building Commissioner & Lauren Haché, Principal Assistant

- Wayne Dennison opens the public hearing and reads various correspondence into the record.
- Charles Husk the owner of 160 Marshall Street present his case to the Board, stating that the accessory dwellings are not trailers, they do not have wheels or tires. Mr. Husk continues to explain the lot and history as it was passed down in the family. Mr. Husk is asking for an occupancy permit for the accessory structure, it's a great spot to view wildlife and bird watching. Since having the property delineated, only one of the accessory structures is in the Wetlands Protection Overlay District, one is not. We are looking for a special permit for the structure to the north. We are asking for the permit to use the structure for four months of the year. The rest of the year we would use as agriculture storage, where we do not use any chemicals at all in our farming. I am asking the Board for the special permit for the structure that is in the WPOD.
- Emmett Sheehan states what special permits are you asking for?
- Charles Husk states it's for occupancy
- Wayne Dennison states you need a special permit for an accessory use and you are saying one is in the WPOD and one is not; what other special permit do you need?
- Judith Barrett states I have no idea what we're being asked to do
- Jim Wasielewski states essentially, it was determined that the property is in the WPOD and it was also determined that there are multiple dwellings on the property. Now that we have a stamped plot plan, we can see where the WPOD falls relative to those accessory dwellings.
- Jim Wasielewski states there is one more determination that the board needs to make here, and that is determining if these are appurtenant outbuildings or not, which is part of the determination in the WPOD
- Amy Kwesell, Town Counsel, states when this came to your attention with the enforcement issue, there was evidence that these were somewhat living quarters; at least sleeping accommodations. I would not go as far to say that they are dwellings units, meaning they did not have a stove in them. So the question then becomes is a shed with a bed in it that is possibly being rented an appurtenant outbuilding to the

home. However, your order stated that they had to get special permit for these two structures and that order was not appealed.

- Wayne Dennison states our order was to apply for special permits because they are in the WPOD, but one of them is not in the WPOD
- Amy Kwesell states correct, the applications were filed according to the original order
- Charles Husk states we do not intend on renting these, these are for when family visits
- Wayne Dennison states well, if people are sleeping in there, where do they go to the bathroom
- Charles Husk states well, that's why I would never rent these, they would have to walk up to the garage
- Jim Wasielewski states I do want to point out that these have never been inspected by the building department and there are no certificates of occupancy here
- Emmett Sheehan states did they apply for these
- Jim Wasielewski states in the record they applied for an electrical panel and a plumbing rough inspection but again, we have not been in there to inspect any of this. When these bungalows were originally there, we determined they are under 200 square feet and figured they only required a zoning permit; now with the plot plan we have verification that one is in the flood zone and would have to be elevated to comply with those regulations
- Amy Kwesell states it is only exempt from special permitting in the WPOD if it is appurtenant to a single-family dwelling so, this board needs to determine if a shed that people sleep in is appurtenant to a single-family dwelling. Also, more importantly, there was an order from this board that these two structures required special permits and that order was not appealed.
- Charles Husk states we are struggling with this as well, we're trying to do the right thing here.
- Judith Barrett states it isn't our job to figure out what you need here
- Amy Kwesell states that a shed under 200 sq. ft. with electric is a different use than using this as sleeping quarters as the applicant admitted this evening, something about quarantine
- Charles Husk states we've never used it for that purpose
- Wayne Dennison states why is it plumbed
- Charles Husk states we use it for watering the animals, but we would like to use it for washing off after the beach
- Wayne Dennison states Amy, is there some agricultural use here
- Amy Kwesell states that would be the case if the entire property was an agricultural use, that is not the case here
- Judith Barrett states structure is one thing, but the use is what we have to determine right
- Wayne Dennison states the other issue is compliance with other permitting requirements and good bad or indifferent, you've got a title 5 permit, how do we get beyond that issue
- Charles Husk states we have capped the water issues and are not using any water

- Wayne Dennison states this is an accessory structure and does require title 5 compliance
- James Wasielewski states just out of curiosity, what is plumbed in these structures
- Charles Husk states well we use the water for the animals but the idea and why we pulled the plumbing permit application was to put in a shower and sink
- Jim Wasielewski states are those in there now
- Charles husk states yes
- Amy Kwesell states so I don't think this is capped if you are using the water for your animals as you just stated
- Charles Husk states I run a hose off the back of the bungalow, there is no drain in the structure and we have not used the water in the bungalows ever. We are working on sorting out the septic
- Wayne Dennison states in all honesty, all we ever do is condition these to be in compliance with all other permits but isn't the title 5 problem not pertaining to these but the main residence
- Philip Thorn states right, the entire property and continues and states there is zero chance I could vote in favor of this but there is no clear use for these structures. It is not appurtenant, second the title 5 issue is for the entire property and there has never been a scenario like this where there is a failed title 5. We have no clear definition of what you want to do here and why you did what you've already done
- Wayne Dennison states so we have had scenarios where people come in after they have already built something, and then seek permission, but I did say we would open this up to the public
- Dave Uitti, Counsel for the direct abutters, shares his screen and present a lengthy history of the property and ongoing violations and that there are utilities that go through the WPOD to service the trailers including plumbing and electric. The trailers and utilities should not be on the site and should be removed.
- Harry Scott, 174 Marshall Street, states he built a home a few years ago and has questions regarding bedroom units and the code. Were the utilities ever inspected for these structures
- Jim Wasielewski states that when the structures were placed, they were done so without permitting. After the fact, we issued zoning permits to try to get them into compliance. I was never told that a sink or toilet would be installed and then the gate came up and I have not been able to access the property
- Charles Husk states I had the plumbing and electrical inspectors out to the property and Jim is allowed on the property, that had never been denied. I don't appreciate the assertions that a member of the Planning Board to come up here and dictate how we should use our property, we pay the taxes on this property and I am trying to do this the right way.
- Philip Thorn states I do want to state that I agree with you, how you enjoy and use your property is your prerogative. As long as things are being done in a legal fashion, I am with you on that point.
- Charles Husk states these are made of welled steel and are anchored into the ground.

- Judith Barrett states all I want is an application that complies with the zoning Bylaw, that is what we are here for, so you need to submit an application to comply with all applicable pieces of the zoning bylaw. It is not our job to tell you how to do that and we don't have that right now. This isn't an argument on whether somebody gets to use their property the way they want to use it, what I care about as a zoning board member is, are you using that property in a manner that is consistent with what the zoning bylaw provides, I don't have that and that is what you need to get us
- Charles Husk states that is exactly what someone telling you how to use your property is
- Judith Barrett states we need an application that shows exactly what you are proposing to do from a use perspective that complies with the bylaw
- Charles Husk states this committee told me to apply and actually I only need a special permit for the one in the wpod, the other can be rescinded
- Judith Barrett states you still need to satisfy use
- Charles Husk states the special permits are because they are in the wetland protection overlay, well one is, one is not in that zone
- Judith Barrett states the question is how you are using the structures
- Charles Husk disagrees
- Judith Barrett states ok, I am done with questions
- Wayne Dennison states is there anyone else here to speak; I move to close the public hearing
- Judith Barrett seconds
- All in favor WD, JB, PT, ES, BG
- Wayne Dennison moves to deny the application for a special permit
- Judith Barrett seconds
- All in favor WD, JB, PT, ES, BG

Motion: It was moved, seconded and voted (5-0) to close the public hearing.

Moved by: WD

Seconded by: JB

Number in favor: 5

Number opposed: 0

Motion: It was moved, seconded and voted (5-0) to deny the application for the special permit.

Moved by: WD

Seconded by: JB

Number in favor: 5

Number opposed: 0



Meeting Notice

Town of Duxbury, Massachusetts

Pursuant to MGL Chapter 30A, §18-25
All meeting notices and agenda must be filed and time stamped
in the Town Clerk's Office and posted at least 48 hours prior to
the meeting (excluding Saturdays, Sundays and Holidays)

TOWN CLERK'S STAMP

RECEIVED

TOWN CLERK

11/20/2023, 9:21:03 AM

DUXBURY, MA

Committee: **Zoning Board of Appeals**

Meeting Location: **Town Hall, Mural Room, 878 Tremont St. & via zoom**

Day & Date of Meeting: **Monday, November 27, 2023** Time: **7:00PM**

Posted by: **Lauren Haché, Principal Assistant, ZBA**

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<https://pactv.zoom.us/j/93616327348?pwd=RHZYNIIVLTndTdVZqaWIPb25hZIVLUT09>

Call in Access dial by your location: 1 929 205 6099

Meeting ID: 936 1632 7348 Zoom Password: 943482

PUBLIC HEARING AGENDA

- **ZBA Case #2023-09, The Winsor at Millbrook Village, 50 Railroad Avenue, Comprehensive Permit Application (CONT'D):** The Applicant proposes to construct twelve (12) condominium units – including three (3) affordable units - that will meet the definition of low and moderate income housing under G.L. c. 40B, Sections 20-23. The proposal is for twelve (12) units in total, in which there will be a six (6) unit building and three (3) duplex buildings.
- **ZBA Case #2023-15, Husk, 160 Marshall Street (CONT'D):** The applicant seeks special permits for two accessory structures previously placed on the parcel without permits and to be used seasonally for agricultural use and storage during winter months, and in the summer months as a leisure space for waterfront activities with family. A Special Permit(s) is required.

ADMINISTRATIVE

A. Approve Meeting Minutes