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# TOWN OF DUXBURY



## BOARD OF APPEALS

### DUXBURY BOARD OF APPEALS

#### MEETING MINUTES

December 14, 2017 @ 7:30 p.m.

**ATTENDANCE:** Judith Barrett, Kathleen Muncey, Freeman Boynton, Jr., Emmett Sheehan, Dimitri Theodossiou & Borys Gojncyz

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

- **2017-11, Chuslo Quinzani, 28 Mayflower Ave. (CONT'D):** *The Board moved to grant the special permit. All in favor (4-0).*
- **2017-12, Soderstrom, 28 White Street:** *The Board moved to grant the special permit, subject to revised plan. All in favor (5-0).*
- **2017-07, Duxbury Farms Homeowner's Association/Towse, 78 Sawmill Rd. (CONT'D):** *The Board moved to overturn the building inspector, in part, to mitigate a determined nuisance.*

*Emmett Sheehan makes a motion to close the public hearing for 28 Mayflower Avenue. Borys Gojncyz seconds. All in favor (4-0). Two abstained (Kathleen Muncey & Freeman Boynton, Jr.).*

*Emmett Sheehan makes a motion approve the Special Permit for 28 Mayflower Avenue. Borys Gojncyz seconds. All in favor (4-0). Two abstained (Kathleen Muncey & Freeman Boynton, Jr.).*

*Emmett Sheehan makes a motion to close the public hearing for 78 Saw Mill Road. Borys Gojncyz seconds. All in favor (5-0). One abstained (Judith Barrett.).*

*Emmett Sheehan makes a motion to overturn the building inspector, in part, to mitigate a determined nuisance at 78 Saw Mill Road. Dimitri Theodossiou seconds. All in favor (5-0). One abstained (Judith Barrett.).*

*Kathleen Muncey makes a motion to approve the meeting minutes from July 13, 2017. Borys Gojncyz seconds. All in favor (3-0).*

*Kathleen Muncey makes a motion to approve the meeting minutes from October 26, 2017. Borys Gojncyz seconds. All in favor (4-0).*

*Freeman Boynton, Jr. makes a motion to approve the meeting minutes from November 9, 2017.. All in favor (4-0).*

## **BOARD OF APPEALS — MINUTES**

**Applicant:** Julia Chuslo Quinzani  
**Property Address:** 28 Mayflower Avenue  
**Case No:** 2017-11  
**Date:** December 14, 2017 **Time:** 7:30 p.m.  
**(CONT'D from November 9, 2017)**

The Board of Appeals will hold a public hearing in the Mural Room at Town Hall, 878 Tremont Street, on Thursday, ~~November 9, 2017~~ at 7:30 p.m. to consider the application of Julia Chuslo Quinzani for a Special Permit under Article(s) 400 and 900, Section(s) 410.7 and 906.2 of the Duxbury Protective Bylaw. The property is located at 28 Mayflower Avenue, Parcel No. 127-098-001 of the Duxbury Assessors Map, consisting of 1.36 acres in the Residential Compatibility District and owned by Rob Roy & Julia Quinzani. The applicant proposes to operate a home office with one part-time employee. A Special Permit is required.

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

**Members Voting:** Judith Barrett, Emmett Sheehan, Dimitri Theodossiou & Borys Gojncyz

**Other persons present at the hearing:** Scott Lambiase, Director of Municipal Services & Angela Ball, Administrative Assistant

- Judith Barrett, Chair Pro Tem, opens the hearing and reads the public hearing notice into record. Ms. Barrett cites the correspondence received that includes an application, a memo from the BOH, a memo from the Conservation Commission, a Memo from the Planning Board, and then reads letters of support from two different abutters.
- Judith Barrett explains to the applicant that the majority rule and that there is only a panel of 4 members, but that they may proceed if they'd like.
- Rob Roy Quinzani and Julia Chuslo concur that they'd like to proceed.
- Judith Barrett invites the applicants to present their case.
- Rob Roy Quinzani states he doesn't have a presentation prepared, but thought he provided all the documents the Board needed.
- Judith Barrett states that she understands, but typically the applicant presents the request so that all present can see and understand the proposal.
- Rob Roy Quinzani states that they are there for a special permit as after they built their current residence and had the building inspector in they were made aware that they needed a special permit for the business occupancy. Mr. Quinzani states that they had a similar thing at their previous residence. Mr. Quinzani goes on to state that it is a room above the garage.
- Judith Barrett asks what kind of business?
- Mr. Quinzani states that Julia is an architect, that she designs homes and decisions, mostly in Duxbury.
- Judith Barrett asks when the part-time employee is there.
- Mr. Quinzani states that he is there 8-4, 4 days a week, sometimes 5 although it could go down to less.
- Judith Barrett asks if there are ever clients that come to the office.
- Julia Chuslo states that she does occasionally, but they do most everything over the computer now.
- Judith Barrett asks the Board if they have any questions.
- Dimitri asks if the previous house had the same arrangement.

- Mr. Quinzani states that yes, the address they had before was at 38 Merry Ave and the few people they had there came and went without disturbance. Mr. Quinzani states that this house now has room for 6 off-street parking spaces, so there is room there if needed.
- Judith Barrett asks if the trigger for the special permit was due to the part-time employee on the premises.
- Scott Lambiase confirms yes, and states that it is also for the occasional client that might come by.
- Mr. Quinzani states that there is no plan for signage either.
- Judith Barrett asks the Board if there are any other questions. No.
- Judith Barrett asks if anyone at the meeting would like to speak for or against the request. No response.
- Judith Barrett states that she has no issues with the request and thinks it's great to have small businesses in town.
- Emmett Sheehan makes a motion to close the public hearing. Borys Gojnczyz seconds.
- Emmett Sheehan makes a motion to approve the special permit as proposed. Borys Gojnczyz seconds.
- Judith Barrett asks if there is any discussion. No.
- Judith Barrett states that the Board has to make findings under the by-law in connection with the application in order to grant the special permit like is the proposed location suitable and she would like to suggest that there is inherent suitability. Ms. Barrett goes on to state that the activity type does contribute to the diversity, that it services local markets, that the scenic views are not impeded by the proposal, that the proposal is compatible with neighborhood character. Ms. Barrett asks Scott Lambiase if he has any concerns over the findings we have to make under 906.2?
- Scott Lambiase states none at all.
- Judith Barrett states that another finding is that reasonable efforts have been made to minimize parking and service areas. Ms. Barrett asks Mr. Quinzani how the parking is accommodated on the site.
- Mr. Quinzani states that he provided photographs and there are 6, 2 in front of the garage doors, 3 on the side, and 1 down the side of the garage.
- Ms. Barrett states that there is no parking nuisance and feels they've made enough findings under 906.2 to grant the permit and sees no reasons to impose additional conditions on this. The Board concurs.
- The Board votes unanimously to grant the special permit at 28 Mayflower Avenue, 4-0.

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

Moved by: ES  
Number in favor: 4

Seconded by: BG  
Number opposed: 0

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

Moved by: ES  
Number in favor: 4

Seconded by: BG  
Number opposed: 0

## BOARD OF APPEALS — MINUTES

**Applicant: Soderstrom**

**Property Address: 28 White Street**

**Case No: 2017-12**

**Date: December 14, 2017 Time: 7:45 p.m.**

The Board of Appeals will hold a public hearing in the Mural Room at Town Hall, 878 Tremont Street, on Thursday, December 14, 2017 at 7:30 p.m. to consider the application of Stanley Soderstrom for a Special Permit under Article(s) 400 and 900, Section(s) 401.2, 410.4 and 906.2 of the Duxbury Protective Bylaw. The property is located at 28 White Street, Parcel No. 081-959-127 of the Duxbury Assessors Map, consisting of 0.23 acres in the Residential Compatibility District and owned by Stanley J. & Jade B. Soderstrom. The applicant proposes to remove and replace the existing roof, plans for which increase the height and encroach the setbacks. A Special Permit is required.

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

**Members Voting:** Judith Barrett, Kathleen Muncey, Dimitri Theodossiou, Freeman Boynton, Jr., & Borys Gojncyz

**Other persons present at the hearing:** Scott Lambiase, Director of Municipal Services & Angela Ball, Administrative Assistant

- Judith Barrett (CPT), opens the hearing and reads the public hearing notice into record.
- Judith Barrett cites the correspondence received - the application, photographs, and memoranda from various Town Boards - a Memo from the Board of Health, a Memo from the Conservation Commission, and a Memo from the Planning Board. Ms. Barrett reads the Memo from the Planning Board stating that it deferred judgement to the ZBA, but notes that there is a tree that might be impacted and asks for any input from Design Review Board. Ms. Barrett reads a Memo from the Design Review Board that they had some suggestions to improve the appearance of the project and Ms. Barrett also cites an email from Nancy Johnson of DRB to Angela Ball. Judith Barrett then invites the applicant to present.
- Richard Burchill states he is a local builder and is there to represent the applicant. Mr. Burchill states that they are not going outside of the footprint of the house, but there is very limited space on the second floor, that the house is non-conforming and they aren't asking to go outside of the lot lines, but they are asking to increase the volume on the second floor.
- Judith Barrett asks what the increasing non-conforming nature of the existing structure.
- Richard Burchill and Freeman Boynton, Jr both state volume.
- Richard Burchill states that there is also work being done over the setback. He goes on to state that he just put a second floor on the house 2 doors down and many of the neighborhood houses are being renovated. Mr. Burchill states that Stan does not oppose the rendering that Nancy Johnson of the DRB suggested.
- Freeman Boynton, Jr. asks if a bay window counts towards the setback.
- Scott Lambiase states that if it doesn't have floor space and is just a bump out, and if it's minimal he'd say it'd be ok.
- Judith Barrett asks the Board if they have any questions or comments.
- Freeman Boynton, Jr. states that the site plan will not change any since you are not adding any flooring, just a volume thing, direction of the property line the same.
- Richard Burchill states that is not going to change at all.
- Judith Barrett states she'd like to refer back to the Planning Board's comments regarding a tree on the property and asks what will happen to the tree.

- Stanley Soderstrom states that it won't affect the tree whatsoever, that the changes won't affect the trees at all, no pruning etc.
- Richard Burchill states he thinks it is just a bad angle with the photograph.
- Kathleen Muncey asks if the tree doesn't overhang as depicted in the photograph.
- Richard Burchill states it does not.
- Judith Barrett asks if the Board has any questions or comments, No.
- Judith Barrett asks if anyone there is a party of interest and has any comments for or against. No.
- Freeman Boynton, Jr. asks if anyone has talked to the abutter, at 24.
- Stanley Soderstrom states that Joan, the neighbor, is in favor.
- Richard Burchill states that he did the house a few doors down and the neighbor between is looking for an addition and Anne Prince across the street was thrilled to hear something was going to be happening.
- Dimitri Theodossiou asks what about the window suggestions from the DRB.
- Judith Barrett states she thinks they'd need a plan showing the changes.
- Richard Burchill states it's just getting rid of a gutter line, nothing structural and it is purely ornamental.
- Judith Barrett asks Scott Lambiase if he is comfortable with the plan if they just incorporate it into the condition.
- Scott Lambiase states yes, if you incorporate that, he will make sure.
- Borys Gojncyz states that part of the volume increase is to make head room.
- Richard Burchill states that yes, the staircase will stay the same, just for volume.
- Judith Barrett states that if there are no other concerns, they can close the hearing.
- Borys Gojncyz makes a motion to close the public hearing for 28 White Street. Kathleen Muncey seconds. All in favor (5-0).
- Kathleen Muncey makes a motion to approve the special permit with a condition that the plan be advised to incorporate the change suggested by the Design Review Board as illustrated in the email from Nancy Johnson of the DRB dated 12/8/17 (option #1). All in favor (5-0).

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

Moved by: BG  
Number in favor: 5

Seconded by: KM  
Number opposed: 0

**Motion: It was moved, and unanimously voted to approve the special permit.**

Moved by: KM  
Number in favor: 5

Seconded by:  
Number opposed: 0

## **BOARD OF APPEALS — MINUTES**

**Applicant: Duxbury Farms Homeowner's Association  
(Kevin Coughlin & Kristin Towse)**

**Property Address: 78 Saw Mill Road**

**Case No: 2017-07**

**CONT'D Date: December 14, 2017**

**(Continued from September 28<sup>th</sup> & October 26, 2017)**

The Board of Appeals will hold a public hearing in the Mural Room at Town Hall, 878 Tremont Street, on ~~Thursday, September 28, 2017~~ at 7:30 p.m. to consider the application of Duxbury Farms Homeowners Association for an Appeal under Article (s) 400 and 900, Section (s) 410.2 #5 and 906.1 of the Duxbury Protective Bylaw. The property is located at 78 Saw Mill Road, Parcel No. 015-025-002 of the Duxbury Assessors Map, consisting of 1.26 acres in the Residential Compatibility and Wetlands Protection Districts and owned by Mutsumi S. Sullivan. The Applicant contends that a Ground Mounted Solar Array creates a hazardous use as defined in Section 410.2 #5 and disputes the Zoning Enforcement Officer's opinion that the solar panels do not present a hazard.

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

**Members Voting:** Kathleen Muncey, Freeman Boynton, Jr., Emmett Sheehan, Dimitri Theodossiou & Borys Gojncyz

**Other persons present at the hearing:** Scott Lambiase, Director of Municipal Services & Angela Ball, Administrative Assistant

- Kathleen Muncey (CPT) opens the hearing, stating that it is a continued public hearing.
- Kathleen Muncey states that where they left it was that they were waiting for Town Counsel's opinion and the Board has read it and Town Counsel believes that it could be a jurisdictional issue because of an untimely appeal. Ms. Muncey states that if they choose to go that route then they lose the right to go that way, but they can look at it if it's considered a nuisance and states that they can also decide whether it can be mitigated as that is not part of the jurisdictional issue. Ms. Muncey asks if any other members of the Board have any comment on the view of the opinion.
- Freeman Boynton, Jr. states he thinks she has a good handle on it.
- Judith Barrett asks if Town Counsel knows this is a Chapter 40B development.
- Board agrees that it is irrelevant to this issue.
- Ms. Muncey states that it's not that anyone is opposed to solar arrays, but it has to do with this particular location which is at the end of a road very near a school bus stop and there is no fence around it.
- Freeman Boynton, Jr. states that the neighbors were looking for mitigation.
- Kathleen Muncey invites Kristen Towse to speak.
- Kristen Towse of 11 High Street states that they are back where they started and are asking the Board for help, that there are over 25 kids in this neighborhood including her 6 and 3 year old children and the panels get very hot, up to 150 degrees. Ms. Towse states that she knows there is a case in the news in Beverly where they had 20 panels and this is 72 and she believes theirs is worse and she has great concerns over safety and if this is a commercial operation. She states that they followed the instructions she was given relative to the time frame for the appeal and that his letter to her was misdated. Ms. Towse states that she sent an email around pointing out that the letter she received was

misdated and it had a wrong address and she didn't get the letter until May 30<sup>th</sup> and that was the date she was told to use, so if there is a time frame issue, they feel that they have followed the instructions of the most senior official at Town Hall. Ms. Towse states that they have tried to exert some reason, offered to help pay for a fence, and they think the only way he will do anything is if they get help. Ms. Towse states that other Boards weighed in unanimously in their favor.

- Kathleen Muncey asks if anyone else would like to speak and if the property owner is there. No.
- Freeman Boynton, Jr. states he thought the owner was open to putting in a fence.
- Borys Gojncyz said he understood it that the owner wasn't opposed to a fence, but that they needed to agree on what.
- Emmett Sheehan stated that he remembers asking if there was an option for mitigation and it seemed that you all wanted to see it go away versus the end where you were open to the fence.
- Chris Bragg of 33 Saw Mill Road states that we offered to pay for it and it was rebuffed. Mr. Bragg states that he thinks nothing will be done unless the Board forces it as neighbor to neighbor hasn't worked.
- Dimitri Theodossiou states he recalls that the owner stated he would do a chain link fence when he got some money.
- Judith Barrett suggests that they bring it back to what is the Board's jurisdiction.
- Kathleen Muncey asks if we accept jurisdiction, do we have authority to order a forced removal unless he puts a fence in.
- Judith Barrett states that the sole matter in front of the Board is whether you uphold the decision of the building inspector.
- Kathleen Muncey disagrees and states that this is ok, it definitely talked about mitigation.
- Chris Bragg states that one thing he recalls is that the solar guy stated any fence you put up will block morning solar rays.
- Emmett Sheehan states that he gathered that if they voted to make this go away, there is no way it'll hold up in court.
- Scott Lambiase states that he did opine that it was a commercial enterprise. He also states that he feels he was timely with his decision on the appeal.
- Emmett Sheehan states that he is not a solar expert, how do we know what is commercial and what is not.
- Scott Lambiase states that their expert did say.
- Freeman Boynton, Jr. states that the combination of the rooftop and the other equals commercial and the owner did say he'd remove the roof ones.
- Emmett Sheehan asks if we can go forward with the mitigation.
- Kathleen Muncey states that she believes they can, that they have to take a step to mitigate, not just say take it away.
- Judith Barrett states that you also have to disagree with the building inspector to begin mitigation.
- Freeman Boynton, Jr. states you can also require him to reduce the arrays down to residential, non-commercial level.
- Kevin Coughlin of 60 Saw Mill road asks what the definition of commercial, the threshold.
- Freeman Boynton, Jr. states it's about 25KW.
- Kevin Coughlin states that if you look at what is on his roof it calculates to about 8,00 kwh per year and the average home in MA consumes about 7,000, so what is on his roof alone should meet his power needs. He states that his side yard generates 30,000 kwh and if you combine the two, it's enough to power 5 ½ homes and that screams commercial. Mr. Coughlin states that even if you have him cut in half, it's still enough for 3 homes.
- Freeman Boynton, Jr. states that we can only cut it down to the maximum allowed in a residential.
- Kevin Coughlin asks if we know what that is.
- Emmett Sheehan states that no.

- Scott Lambiase states that each is considered separate and that anything below a certain threshold is considered residential and they are both considered separate and the larger of the two is just under the threshold.
- Kevin Coughlin states then does that mean he can go and get another.
- Kathleen Muncey asks why they are treated separately.
- Scott Lambiase states that there are no regulations yet.
- Kathleen Muncey states that in theory he could have a third one.
- Scott Lambiase states that he could apply for it at this point but I don't know that he'd get it. Mr. Lambiase states that they do have plans to have regulations made at Town Meeting and the planning board is working on it.
- Kathleen Muncey states that it wouldn't go backwards, only forwards.
- Kevin Coughlin states that a woman is in here for a special permit for a home office, why not for solar.
- Emmett Sheehan states that he understands and then asks where they are.
- Kathleen Muncey states are they inclined to accept jurisdiction.
- Freeman Boynton, Jr. states that if it's a nuisance we do have that ability, right?
- Kathleen Muncey states she believes they do have that ability.
- Freeman Boynton, Jr. states he thinks it exceeds the residential capacity.
- Emmett Sheehan states that it is sketchy both ways as it's been said that they are two separate, but he feels it's a nuisance.
- Judith Barrett states that despite that, she thinks they do have the right to interpret what determines accessory use.
- The Board agrees.
- Kathleen Muncey asks how they deal with the nuisance.
- Judith Barrett states that if you find one of the sets of panels is not accessory, can't you order him to remove them.
- Kathleen Muncey & Emmett Sheehan agree that they are not there.
- Freeman Boynton, Jr. states that if we can keep the kids away, then that's all we need to do.
- Kathleen Muncey states can we order a removal unless there's mitigation.
- Lauren Praetsch of 66 Saw Mill Road states that I know the Town has asked him to remove the debris and that hasn't been done and I'm concerned he isn't caring for the area the way it should be and there is a huge pile along High Street. She states that he may fence all the debris too.
- Scott Lambiase states that the Fire Chief and I had gone out there and the Fire Chief requested that he clear it. A good example is what happened at our own landfill and the fire, but we would like that cleared up and will follow up on it.
- Kathleen Muncey asks what will happen if he puts up a solid fence.
- Scott Lambiase states that he's got 25'.
- Emmett Sheehan states he could do a pool fence that's non-climbable, if it's good to not get into a pool, it'll be good for an array.
- Dimitri Theodossiou states [addressing audience] that you are all willing to finance this fence, is that right.
- All answer not anymore.
- Dimitri Theodossiou asks why they changed their mind.
- Kristen Towse states that she offered early in the process to contribute to a portion of the fence prior to filing the appeal, partly because I didn't want this headache.
- Dimitri Theodossiou states that this is a neighborhood issue and in his opinion if you take corners, this will never get resolved. If you were willing to pay something 6 months ago, but not now. Why not finance the difference.
- Kristen Towse states that he paid \$120k for the solar panels but refuses to put up a fence.
- Dimitri Theodossiou states that it seems disingenuous to have offered before, but not now – what changed.
- Kristen Towse states that it was also under the condition that I could pick the fence.



- Kevin Coughlin states that you are assuming he is going to cooperate.
- Judith Barrett asks all talking over to speak one at a time.
- Michelle Davis of 69 Saw Mill states that she had a recent fence install and had the installer go over and give an estimate to enclose the array and he got what she thinks was under \$6k and still he has done nothing at all and I think unless he is ordered to do something he will not.
- Mike Davis of 69 Saw Mill states that Patrick was given a price of \$5200 to enclose it, it's not a crappy fence and aesthetically this option is nice. Mr. Davis states that if you do a chain link, aesthetically we're in the same boat and that I texted Patrick this and he responded that it's not bad.
- Kathleen Muncey asks when this was.
- Mike Davis responds, November 2<sup>nd</sup>. Michelle Davis states it was shortly after the first meeting.
- Emmett Sheehan states do you think he'd do that if you split it.
- Mike Davis states that he goes back and forth, so I'm not sure.
- Michelle Davis states that we as a HOA took a vote on it and some of us were willing to put in money; however, there were more people that rejected it because why are we using money we should be using for plowing, etc.
- Judith Barrett asked if they've considered hiring an outside consultant for this matter, that the Board might need technical advice.
- Emmett Sheehan asks who they've heard from.
- All answer – his guy, the installer, who said it was commercial.
- Freeman Boynton, Jr. states that yes, he said the combined was over.
- Chris Bragg states that he was playing games saying he only owns the one on the roof, etc. but he did make the point about the fence that the morning rays will be affected. Mr. Bragg states that he thinks that whatever is ruled, he's not sure he will comply, but he thinks that if they rule this way, at least a precedent is set.
- Freeman Boynton, Jr. asks Scott if the Town would let them put it up on Town line.
- Scott Lambiase states that it is not Town property, a private road.
- Kathleen Muncey states that if he is not part of the street then he doesn't own the road, so the road is a 40' layout so you should have enough room to put up your own fence.
- Freeman Boynton, Jr. states that with the HOA permission.
- Kevin Coughlin states that there are two houses at the end of the neighborhood that face Saw Mill – his and Towse's – they are not part of the HOA. He states that I don't think we own land to put up a fence.
- Freeman Boynton, Jr. states that someone owns it.
- Kevin Coughlin states they own the right of way.
- Judith Barrett states that it'd be good to reign in the procedural stuff first and although I am not voting, I would say to put jurisdiction on the record.
- Kathleen Muncey states what do you think. The Board discusses and determines that they do have jurisdiction, that the appeal was timely.
- Scott Lambiase concurs.
- Judith Barrett states it seems to her there are two issues and one is if the Board needs to act on the basis of a nuisance and the second is if this is an accessory residential use.
- Kathleen Muncey states that she doesn't think the Board has information or expertise to make that judgement [referring to residential vs commercial].
- Emmett Sheehan agrees.
- Kathleen Muncey continues, stating that what do we know about the residential vs commercial part of it; she states we heard testimony from the installer and I don't have the ability to dispute it.
- Judith Barrett asks Scott if there is money in the budget for a consultant.
- Scott Lambiase answers yes.
- Dimitri Theodossiou states that he remembers that Wayne had asked for the Town Counsel to really opine on that part – the commercial.

- Emmett Sheehan states that aside from the expertise in solar, is this a nuisance or not – can we rule on that.
- Kathleen Muncey states that Judi's point is that if it is more than an accessory use we have the ability to take it down.
- The Board discusses consultants and if it's needed and if there are any experts in Town.
- Scott Lambiase states he does have money in the budget for the Board.
- The Board discusses if this will be on Town meeting.
- Dimitri Theodossiou states that even if they got an expert, he is not willing to make this guy take this stuff down and he feels it's a neighborhood issue and they need to find a solution.
- Emmett Sheehan states that he thinks this would drag on even if they ordered it removed.
- All discuss – audience and Board.
- Kathleen Muncey states that they can find for mitigation by saying he has to put up a fence and put a time line on it and we see that you're saying you don't think he'll do it, but it's a start.
- Judith Barrett states you are going in two directions, dealing with it as a nuisance or you're determine that the use is not allowed.
- Chris Bragg states that they'd like a ruling on that and then determine it's a nuisance.
- Emmett Sheehan states that the nuisance is the more efficient way to do it and there are other penalties I'm sure.
- Scott Lambiase states that he would have to turn it over and it would go right to court.
- Michelle Davis states that if they say it's commercial, couldn't he just pop a panel out and she thinks nuisance and fence route is better.
- The Board discusses a time frame to request the fence be up and agree by April 30, 2018 is reasonable. The Board discusses particulars of the fence and agree that 4ft non-climbable.
- Kathleen Muncey states that you should keep in mind the point that you might have the ability to put up a fence yourselves, so keep that in mind.
- Pete Duggan of 9 Saw Mill Road asks if the wiring inspector has to sign off on this.
- Scott Lambiase states yes.
- Pete Duggan, Scott Lambiase & audience discuss the process.
- Freeman Boynton, Jr. states that he was under the impression that at the last meeting the owner said if he had to choose he would take them off the roof and that wouldn't solve this problem.
- The Board and audience discusses the area the fence should be required and Mike Davis describes the quote for fencing that he received.
- Judith Barrett states that if the Board determines this is a nuisance, aesthetics cannot be part of it.
- Dimitri Theodossiou suggests that the fence be run by Scott first.
- Judith Barrett states that in her opinion, despite the lack of guidance in the code, there is a nuisance and a safety risk, and you require the owner to install a fence sufficient to abate the nuisance.
- Kathleen Muncey and Judith Barrett agree that it then becomes an enforcement issue.
- The Board discusses if the owner will need a building permit.
- Brian Koplovsky of 107 and 115 High Street near the cranberry bog states that he thinks he still has a deeded right of way he'd have to stay out of, and he'd like to have Scott remind him [the owner] that he cannot do anything on the back side. He states that if the fence gets to the back, he has to keep it out of the deeded right of way and that we did get him to move his solar array.
- The Board discusses whether or not they need to do a site visit and if two sides fenced is ok.
- Borys Gojncyz states that he's seen it and thinks that what the main concern is with kids at the bus stop, he's saying two sides is sufficient.
- Emmett Sheehan makes a motion to close the hearing for 78 Saw Mill Road. Borys Gojncyz seconds. All in favor, 5-0 (Judith Barrett abstained).

- Kathleen Muncey makes a motion to overturn the building inspector's decision, in part, determining that the solar array is a nuisance due to its location and in order to mitigate said nuisance, orders a minimum of a 4' non-climbable fence, in accordance with a plan to be approved by the building inspector and to be erected by April 30, 2018, noting that failure to do will result in appropriate enforcement action.
- Judith Barrett asks if they'd like to include that if the building inspector determines it is necessary a qualified consultant will be retained.
- The Board disagrees since it's a fence, not the solar part.
- Emmett Sheehan moves to make official the motion, *with conditions* that was just set forth. Dimitri Theodossiou seconds. All in favor, 5-0 (one abstained).

**Motion: It was moved, and unanimously voted to close the public hearing for 78 Saw Mill Road.**

Moved by: ES

Seconded by: BG

Number in favor: 5

Number opposed: 0

**Motion: It was moved, and unanimously voted to overturn the building inspector, in part, to mitigate a determined nuisance.**

Moved by: ES

Seconded by: DT

Number in favor: 5

Number opposed: 0