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# TOWN OF DUXBURY



## BOARD OF APPEALS

### DUXBURY BOARD OF APPEALS MEETING MINUTES

September 26, 2019 @ 7:30 p.m.

**ATTENDANCE:** Kathleen Muncey, Freeman Boynton, Jr., Emmett Sheehan, Borys Gojnyecz & Philip Thorn

**Other persons present at the hearing:** Scott Lambiase, Director of Municipal Services

**CALL TO ORDER:** Kathleen Muncey, Chair Pro Tem, called the meeting to order.

**ZBA Case #2019-06 Cadete Family Limited Partnership, 1518 Tremont Street – CONT'D:**  
*The Board voted to approve the special permit, 4-0.*

**ZBA Case #2019-09 Whitelaw, 222 Powder Point Avenue:** *The Board voted to approve the special permit, 4-0.*

## BOARD OF APPEALS — MINUTES

**Case No: 2019-06**

**Petitioner: Cadete Family Limited Partnership,  
C/o Viewpoint Sign & Awning**

**Address: 1518 Tremont Street**

**Date: September 26, 2019 Time: 7:30 p.m.**

**(Cont'd from June 27<sup>th</sup> & July 25<sup>th</sup>)**

The Board of Appeals will hold a public hearing in the Mural Room at Town Hall, 878 Tremont Street, on ~~Thursday, June 27, 2019~~ at 7:30 p.m. to consider the application of Cadete Family Limited Partnership, c/o Viewpoint Sign & Awning for a Special Permit under Article(s) 400, 600 and 900, Section(s) 421.1 #2, 424, 425.1, 601.3, 601.4, 601.6, 601.9 and 906.2 of the Duxbury Protective Bylaw. The property is located at 1518 Tremont Street, Parcel No. 104-731-350-A of the Duxbury Assessors Map, consisting of 1.5 Acres in the Neighborhood Business District (NB-1) and owned by Cadete Family Limited Partnership. The Applicant proposes to erect a freestanding sign with illumination.

**Members present:** Kathleen Muncey, Freeman Boynton, Jr., Emmett Sheehan, Borys Gojnycz & Philip Thorn

**Members Voting:** Kathleen Muncey, Freeman Boynton, Jr., Borys Gojnycz & Philip Thorn

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

- Kathleen Muncey opens the meeting and explains that the case #2019-06 for 1518 Tremont is a continued one and states that they left things at the last hearing as they were waiting for an actual sign picture to review and that they have that now.
- Sean Donovan of Viewpoint sign states that they do have that now, they have revised the sign and its location and have a revised site plan and they have other tenants interested.
- Kathleen Muncey states that it looks like they'd like it lit and they have a requirement to have that during business hours and ask what those are.
- Jason Cadete states that they close at 9 or so and open at 5am.
- Freeman Boynton, Jr. asks if it will be coming on at 5am.
- Sean Donovan states that it'll be dark so probably, unless there is a condition and you tell us differently, that it's often tied in on a timer with the parking lot lights.
- Kathleen Muncey asks if this side is next to residential neighborhood.
- Sean Donovan states that across the street is another business.
- Freeman Boynton, Jr. asks if the second floor is residential use.
- Jason Cadete states that no one is living in the building, no.
- Kathleen Muncey states that she thinks there are apartments but up church street and she thinks in the next building over, the Doran building there is
- Philip Thorn states that he thought the same, at one point there were apartments.
- Freeman Boynton, Jr. states that as long as the lights don't do more than light the sign there shouldn't be an issue.
- Sean Donovan states that they can put a dimmer on it so if there is a complaint they can be adjusted.
- Kathleen Muncey asks if anyone has any comments.
- Philip Thorn states that he sees that every other business around appears to have a similar sign
- Sean Donovan states that any future tenants will meet the requirements

- Jason Cadete states that his feedback from two other tenants was that they wish they knew they could and are happy about it.
- Kathleen Muncey asks Borys Gojnycz if he has any thoughts.
- Borys Gojnycz states that he knows there was one gentleman here last time concerned about the sign.
- Jason Cadete states that they actually just spoke to him before the meeting and he is ok with the new location, he was concerned with blocking traffic with the other sign.
- Sean Donovan states that he [referring to the concerned neighbor] didn't want a billboard either so this is much better for him.
- Freeman Boynton, Jr. asks if they are doing anything to regulate the other signs that were put up without permits, seemed to me there were others not permitted
- Scott Lambiase states that when Dunkin' Donuts came to me they submitted a full package and the signs were all part of the special permit package, they are all permitted.
- Freeman Boynton, Jr. makes a motion to close the hearing. Philip Thorn seconds. All in favor, 4-0. No discussion.
- Philip Thorn makes a motion to approve the sign in accordance with the Plan as revised and dated 9/5/19 and in accordance with the color scheme designated as the Dunkin' colors. Borys Gojnycz seconds. All in favor, 4-0.

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

**Moved by: FB**

**Seconded by: PT**

**Number in favor: 4**

**Number opposed: 0**

**Motion: It was moved, seconded and unanimously voted to approve the special permit per the revised plans dated 9/5/19 and with the proposed color scheme. s**

**Moved by: PT**

**Seconded by: BG**

**Number in favor: 5**

**Number opposed: 0**

## **BOARD OF APPEALS — MINUTES**

**Case No: 2019-09**

**Petitioner: George Whitelaw**

**Agent, Seacoast Engineering**

**Address: 222 Powder Point Avenue**

**Case No: 2019-09**

**Date: September 26, 2019**

**(Cont'd from July 25th)**

The Board of Appeals will hold a public hearing in the Mural Room at Town Hall, 878 Tremont Street, on ~~Thursday, July 25, 2019~~ at 7:30 p.m. to consider the application of George P. Whitelaw for a Special Permit under Article(s) 400 and 900, Section(s) 401.2 #5, 404.9, 404.11, 410.4 and 906.2 of the Duxbury Protective Bylaw. The property is located at 222 Powder Point Avenue, Parcel No. 134-080-215 of the Duxbury Assessors Map, consisting of 0.93 acres in the Residential Compatibility & Wetlands Protection Overlay Districts and owned by George P. Whitelaw. The Applicant proposes to raze two (2) existing dwellings and to construct a four (4) bedroom dwelling and a detached garage on a lot containing three (3) dwellings, leaving the lot with two (2) separate single family dwellings and one (1) detached garage. A Special Permit is required.

**Members present:** Kathleen Muncey, Freeman Boynton, Jr., Emmett Sheehan, Borys Gojnycz & Philip Thorn

**Members Voting:** Kathleen Muncey, Emmett Sheehan Borys Gojnycz & Philip Thorn

**Other persons present at the hearing:** Scott Lambiase, Director of Municipal Services

- Kathleen Muncey, Chair Pro Tem, states that the next matter on the agenda is also a continuation and states the case # and address. Ms. Muncey explains that they only have a 4-member Board tonight and they would need a unanimous vote for approval and asks the Applicant if they'd like to consider.
- Scott Lambiase and Kathy Muncey discuss if the applicant can continue after the presentation. Yes.
- Paul Brogna of Seacoast Engineering introduces himself and Mrs. Whitelaw and their son and explains that Mr. Whitelaw is not there; He goes on to state that they'd like to go forward tonight, understanding that they need the 4 votes.
- Mr. Brogna states that he did submit some additional paperwork.
- Ms. Muncey states she'd like to read that into the record. Ms. Muncey reads a letter from Seacoast to the Zoning Board dated 9/25/19 that explains that in response to the of 1. A water service connection showing water service to the main house, cottage and barn, 2. A memo from Carolyn Ravenscroft, Archivist from the Duxbury Rural and Historical Society, showing that this property included a house, cottage and stable/shop. 3. A Memo from Tony Kelso, Town Historian, documenting that from tax assessments there were at least three buildings on the lot, two of which were inhabitable as of 1928. 4. A report from Tom Fitzgerald, licensed builder and former Norwell building inspector, documenting info from his inspection.
- Paul Brogna hands out photographs from property to the Board and responds to Ms. Muncey's question to if there were pics of the barn – no.
- Mr. Brogna states that he reviewed the minutes from last time, and with all this information he feels they have proved the barn to have been inhabited.

- Kathleen Muncey states that it is that it has to be a dwelling, not just habitable. She reads the definition of a dwelling and then a dwelling unit, then asks what portion of the barn that is living quarters.
- Paul Brogna states that we've been in touch with the Assessor and building commissioner and both agreed it'd be a tough document to find.
- Kathleen Muncey again asserts the importance of proving the building was a dwelling.
- Mr. Brogna states that he'd like to address the cottage first and demonstrate it was a habitable building.
- Ms. Muncey asks Scott Lambiase if they are to include the main house.
- Scott responds that it is included.
- Kathleen Muncey states that even if I don't agree that you're razing two dwellings, because you're not rebuilding on one of two, he's razing.
- All agreed.
- Paul Brogna goes over the photographs he handed out, pointing out the age of different components of each – light fixtures, insulation. Mr. Brogna goes on to state that according to Mr. Fitzgerald and the Town Historian, their comments show these were habitable then. He asks if anyone has any questions.
- Kathleen Muncey asks if all proposed buildings meet all setbacks.
- Mr. Brogna replies yes and cites all dimensions and coverage.
- Philip Thorn states that he thinks all 3 structures are on the same tax bill, despite the 3 different addresses at one time.
- Mr. Brogna confirms, yes and hands out assessors' cards confirming it's one parcel.
- Emmett Sheehan states that it predates zoning and only nonconformity is 2+ dwellings on one lot; he then wonders if it gives the right to subdivide.
- Kathleen Muncey states that it's more complicated than that.
- Philip Thorn wonders if they should put on as a condition that they can't.
- Kathleen Muncey states that we could, but it's not necessary – she states they could say no condos and asks if the Whitelaws would be ok with that.
- Mr. Brogna states that they are thinking about it, actually.
- Scott Lambiase states that if there are 2 dwellings you are saying it's fit for 2 families and who's in them and who owns them is not a town concern.
- Kathleen Muncey states that they already have the right to condo and to expand one of them.
- Paul Brogna states yes. We'd still need new septic and if condo'd in figure, they'll be other concerns.
- Philip Thorn asks if abutters know that's the eventual goal.
- Mr. Brogna states he doesn't know.
- Philip Thorn states that if they did, he imagines they'd see few more seats filled here.
- Kathleen Muncey asks about the guest house.
- Scott Lambiase states that's ok by right, no stove.
- Borys Gojnycz asks if any neighbors are concerned.
- Paul Brogna goes on to read a quote from the 7/258/19 minutes from neighbor Terry Vose and states that all the landscaping isn't done, but it'll be equal to or better than it is now.
- Emmett Sheehan states that after he's looked into this and considered all the zoning bylaws, he thinks it's a good project.
- Kathleen Muncey states that she's ok with it only 2 dwellings and her concern over calling this barn a dwelling has been assuaged.
- Philip Thorn states that the bylaw doesn't explicitly allow this, but it's not prohibited. He states he doesn't love the idea of a condo, but that a personal opinion and not one in-line with the bylaw, so it would not prevent him from approving it.
- Emmett Sheehan makes a motion to close the hearing. Philip Thorn seconds.

- Kathleen Muncey asks if any discussion. She goes on to state that it is clear that the barn is not considered a dwelling.
- Scott Lambiase states that in the findings, you could state you found only 2 of structures to be dwellings and NOT the barn.
- Kathleen Muncey motions to approve the project as presented, with a finding that the barn is not a dwelling, the cottage is and it predates zoning and the project is not more detrimental to the neighborhood.
- Philip Thorn, seconds.
- All in favor.
- Board motions to adjourn the meeting.

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

**Moved by: ES**

**Seconded by: PT**

**Number in favor: 4**

**Number opposed: 0**

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

**Moved by: KM**

**Seconded by: PT**

**Number in favor: 4**

**Number opposed: 0**