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TOWN OF DUXBURY
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BOARD OF APPEALS

**DUXBURY BOARD OF APPEALS  
MEETING MINUTES**

September 24, 2020 @ 7:30 p.m.

**ATTENDANCE:** Wayne Dennison, Judith Barrett, Kathleen Muncey, Freeman Boynton Jr., Philip Thorn & Borys Gojnycz

**Other persons present at the hearing:** James Wasielewski, Director of Municipal Services, 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 March 12, 2020, Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020, Order imposing strict limitation on the number of people that may gather in one place, 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](http://www.pactv.org/duxbury) for information about Duxbury programming. To watch a meeting live on PACTV's streaming channel, PACTV Prime, visit [www.pactv.org/live](http://www.pactv.org/live). To watch replays of a meeting, visit [www.pactv.org/duxbury](http://www.pactv.org/duxbury) or to watch online visit PACTV's Video on Demand at [www.pactv.org/ondemand](http://www.pactv.org/ondemand). **NO IN-PERSON ATTENDANCE OF MEMBERS OF THE PUBLIC WILL BE PERMITTED.** Every effort will be made to ensure that the public can adequately access the proceedings to the best of our technical abilities; and despite our best efforts due to lack of technical infrastructure, this meeting will be available on PACTV to view a video recording and a transcript or other comprehensive record of proceedings as soon as possible after the meeting.

**ZBA Case #2020-09, Leing, 1041 Union St:** *The Board voted to approve the Special Permit.*

**ZBA Case #2020-10, Wood Decor, 14 Chestnut St.:** *The Board voted to approve the special permit, with conditions.*

*The Board voted to adjourn the meeting. All in favor.*

*The Board voted to approve the meeting minutes from January 24, 2019 (5-0).*

*The Board voted to approve to the meeting minutes from February 14, 2019 (5-0).*

*The Board voted to approve to the meeting minutes from April 25, 2019 (5-0).*

*The Board voted to approve to the meeting minutes from June 13, 2019 (5-0).*

## **BOARD OF APPEALS — MINUTES**

**Case No: 2020-09**

**Petitioner: Nicole Bri Leing**

**Address: 1041 Union Street**

**Parcel #'s: 010-001-000**

**Date: September 24, 2020**

The Board of Appeals will hold a public hearing via ZOOM on Thursday, September 10, 2020 at 7:30 p.m. to consider the application of Nicole Bri Leing 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 1041 Union Street, Parcel No. 010-001-000 of the Duxbury Assessors Map, consisting of 40,000 sq. ft. in the Residential Compatibility (RC) District and owned by Duxbury Builders, LLC. The Applicant proposes to operate a home Massage Therapy office. A Special Permit is required. The application may be viewed on the Town's website [www.town.Duxbury.ma.us](http://www.town.Duxbury.ma.us) under the Zoning Board of Appeals page. Any individual with a disability may request accommodation in order to participate in the public hearing and may request the application and any accompanying materials in an accessible format. Such requests should be made at least three business days in advance by contacting the Municipal Services Department.

**Members present:** Wayne Dennison, Judith Barrett, Kathleen Muncey, Freeman Boynton Jr., Borys Gojnycz & Philip Thorn

**Members Voting:** Wayne Dennison, Judith Barrett, Kathleen Muncey, & Freeman Boynton Jr.

**Other persons present at the hearing:** James Wasielewski, Director of Municipal Services, Lauren Haché, Administrative Assistant

- Wayne Dennison opens the Public Hearing and reads the Governor's preamble. He states that the first matter is ZBA case 2020-09, and lists the correspondence that has been received. We have a letter from Conservation Commission stating no issue to wetlands, a letter from the Board of health stating that Massage Therapy is licensed by the State not Town and a letter from the Planning Board stating they voted unanimously to defer to the ZBA. Lauren, is there anything else?
- Lauren Haché responds no, that's everything
- Wayne Dennison states, ok let's hear from the Applicant
- Nicole Bri Leing addresses the Board, states that she goes by Bri and that she is a licensed Massage Therapist, she's born and raised in Duxbury, she is looking to see a few clients a week. There will be no changes to the home, she is planning to use her spare bedroom as her in home office/therapy room.
- Wayne Dennison states ok, in your application you state that there will not be any changes to your existing home, there won't be any impact to traffic and that it's appointment only. Does the Board have any questions?
- Judith Barrett states Mr. Chairman, I don't have any questions, I think this is pretty straight forward.

- Wayne Dennison asks is Massage Therapy an approved home use? Jim are you here?
- James Wasielewski responds, yes, I am
- Wayne Dennison states do you have any input?
- James Wasielewski states I have no objections to it. It's not a specifically listed use, it could fall under a Consultant
- Wayne Dennison states are there Persons here interested in speaking?
- Judith Barrett states the definition of a home business as it pertains to the Bylaw. What she is doing falls within that category
- Wayne Dennison asks any other folks to weigh in?
- Kathleen Muncey states I noticed that you weren't the property owner, how are you related?
- Bri Leing states the property owner is my dad, he is here this evening. I live in the home with my husband and children and grew up down the street.
- Wayne Dennison states if there are no further questions or comments, I would like to move to close the Public Hearing.
- Judith Barrett Seconds.
- All in favor Wayne Dennison, Judith Barrett, Kathleen Muncey and Freeman Boynton Jr.
- Wayne notes that we lost a Board Member, so the Applicant can move forward to the vote, but it will need to be unanimous since there are only four members.
- Philip Thorn states I cannot vote as I have a conflict.
- Bri Leing states she would like to proceed to the vote.
- Wayne Dennison moves to approve the special permit for use of message therapy.
- Judith Barrett seconds.
- All in favor. WD, JB, FB, KM

**Motion: Move to approve the Special Permit for use of a home massage therapy business.**

Moved by: WD

Seconded by: JB

Number in favor: 4

Number Opposed: 0

## **BOARD OF APPEALS — MINUTES**

**Case No: 2020-10**

**Petitioner: Wood Decor,**

**C/O Jeff Wodzinski & Joseph Hicks**

**Address: 14 Chestnut Street**

**Parcel #'s: 110-771-032**

**Date: September 24, 2020**

The Board of Appeals will hold a public hearing Via ZOOM on Thursday, September 10, 2020 at 7:30 p.m. to consider the application of Wood Decor Inc. c/o Jeffrey Wodzinski and Joseph Hicks for a Special Permit under Article(s) 400 and 900, Section(s) 421.3 and 906.2 of the Duxbury Protective Bylaw. The property is located at 14 Chestnut Street, Parcel No. 110-771-032 of the Duxbury Assessors Map, consisting of 0.82 Acres in the Neighborhood Business District 1 (NB1) and owned by South Shore Capital, LLC. The Applicant proposes to change the use to cabinet making. A Special Permit is required. The application may be viewed on the Town website [www.Town.Duxbury.MA.US](http://www.Town.Duxbury.MA.US) under the Zoning Board of Appeals page. Any individual with a disability may request accommodation in order to participate in the public hearing and may request the application and any accompanying materials in an accessible format. Such requests should be made at least three business days in advance by contacting the Municipal Services Department.

**Members present:** Wayne Dennison, Judith Barrett, Kathleen Muncey, Freeman Boynton Jr., Borys Gojnyecz & Philip Thorn

**Members Voting:** Wayne Dennison, Kathleen Muncey, Freeman Boynton Jr., Philip Thorn & Borys Gojnyecz

**Other persons present at the hearing:** James Wasielewski, Director of Municipal Services, Lauren Haché, Administrative Assistant

- Wayne Dennison opens the Public Hearing and reads the Public Hearing notice. Chairman Dennison states we have an application packet, photos and a letter of intent. We have a response from Conservation Commission, Lauren do we have anything else?
- Lauren Haché states we have a letter from the Board of Health stating there are no issues and a letter from the Planning Board where they voted unanimously in favor of this application.
- Wayne Dennison states ok, let's hear from the Applicant
- Jeff Wodzinski states they have been in business for 17 years building custom cabinetry. They have been looking for to purchase a location and happened to find this location and they do have quite a few customers in town. We like this area, the size of the building with the open warehouse and few offices in the back. The machines shut down typically by 4:30pm on average and we don't work on weekends. We start around 6:30-7:00am, regular hours, and we keep the doors closed most of the time.
- Wayne Dennison asks what are regular hours
- Jeff Wodzinski states well, our hours are 6:30/7:00am to 4:00pm
- Wayne Dennison asks does the Board have any questions

- Kathleen Muncey states have you met the neighbors, have you talked to them at all
- Jeff Wodzinski states we have not
- Wayne Dennison asks is Borys back
- Borys Gojnyecz states yes
- Wayne Dennison states so we have a full board....Sir, are you aware that this property has had some issues in the past? There have been multiple special permits for multiple uses...
- Jeff Wodzinski states I am aware of the gymnastics and the CrossFit
- Wayne Dennison states ok, any members of the public here?
- Wayne Dennison continues so the last time we has this hearing, I remember seeing some neighbors on, the Perenick family
- Lauren Haché states no, they are not here
- Jeff Wodzinski states have you had an issue in the past with these abutters
- Wayne Dennison states the Board hasn't had an issue, the issue is the facility has raised significant noise complaints including cease and desists orders, it's been a matter of contention
- Jeff Wodzinski states ok
- Wayne Dennison states the Board have any questions
- Kathleen Muncey states I do, does anything you do cause vibrations or loud noise
- Jeff Wodzinski states vibrations, no. Loud sudden noises, no. We run typical woodworking machines-planers, table saws. We run the saws with the doors open and we don't disturb anyone
- Wayne Dennison states so, at that location there are residential neighbors with significant noise at that facility, operating on a very old special permit, we just keep changing the use. Can we just start with a new Special Permit so that we are not constantly changing use
- Judith Barrett states absolutely we can. I agree with you
- Wayne Dennison states can I ask you a questions, what is the timing with this
- Jeff Wodzinski states we're under agreement, we would give the existing tenants 6 months to a year for them to find a new location, then we would move in and take over the space
- Wayne Dennison states that's extremely helpful, I'm suggesting we continue so that you can interact with the neighbors
- Jeff Wodzinski states we are under a tight timeline, the sellers will have an issue with that. If I did sit down and discuss with the neighbors, what would I be asking them
- Wayne Dennison states in order to grant a Special Permit, we have to show that this is a reasonable use for the area, neighborhood support would help
- Jeff Wodzinski states what's the main reason you are questioning
- Wayne Dennison states there have been significant issues there
- Borys Gojnyecz states have you walked the property, there was a rolling garage door facing Chestnut Street. That door was sealed off and insulated
- James Wasielewski states yes, that has been done
- Borys Gojnyecz states that was the only place that we previously heard noise
- Philip Thorn states will there be any equipment outside, i.e. collection systems
- Jeff Wodzinski states we do not, all of our dust collection is internal
- Freeman Boynton Jr. states can we condition the change of use
- Wayne Dennison states yes, we can, what are you considering

- Freeman Boynton Jr. states limit the hours of operation, opening doors...I'm concerned about the neighbors, can they bring a couple of tools down there and fire them up
- Joe Hicks states two things, one we've never had air conditioning which the guys will be greatly appreciative of, the a/c helps keep the wood stable and it deters them from opening the doors. Not always, but I understand and I forgot the second thing I was going to note.
- Jeff Wodzinski states most of our machines are permanent and heavy
- Joe Hicks states well, they can come to our shop
- Wayne Dennison states that is a very reasonable suggestion. My concern, is really nothing to do with you, it's the site.
- Jeff Wodzinski states we don't play loud music, our guys are just there to work
- Kathleen Muncey asks how many guys
- Jeff Wodzinski states there are six of us in total
- Kathleen Muncey states one of our standards is to determine if this is substantially more detrimental to the neighborhood and I just think it's odd that we have not heard from the Neighbors. I think that is what we are all struggling with
- Jeff Wodzinski states so just by putting the notice in the newspaper, that's not enough
- Judith Barrett states no
- Wayne Dennison states in lots of instances, people try to reach out to the neighbors for support
- Jeff Wodzinski states I wasn't aware of that
- Freeman Boynton Jr. states does that mean the neighbors were not notified by registered mail
- Jeff Wodzinski states they should have been
- Lauren Haché states they have
- Freeman Boynton Jr. states my biggest concern is if you move there and then a few weeks later we end up back here
- James Wasielewski states it is a listed use in the Bylaw, I deferred this to the ZBA due to their deliveries. I did speak with Mr. Perenick and I can't speak for him here, but his biggest concerns were fumes and dust/sawdust, and spray booth fumes, but he is happy about the cabinet shop.
- Joe Hicks states we don't do any on site finishing, all of our saw dust gets put into the dumpster and carted away
- Wayne Dennison states well, that answers those questions. How do you finish it?
- Joe Hicks states we send the cabinets out, an outsourced company does 95% of ours, and it's not something we do or want to get in to.
- Kathleen Muncey states if we limit it or condition not finishing, would that be a problem
- Joe Hicks states no, my issue is how can I buy a building, sink everything I have into it and have a threat that there may be an issues and that I would have to leave my business. Once we are in front of a Board like this, this is someone's time to dispute. If they're not answering, it seems strange to me.
- Wayne Dennison states well they were at the first meeting, I know they were, Lauren, if we were to continue to the next date, when would that be?
- Lauren Haché states October 8<sup>th</sup>

- Jeff Wodzinski states is it 20 days after approval
- Kathleen Muncey states once the decision is filed
- Jeff Wodzinski states we'd have to approach the sellers, they are already frustrated with us
- Wayne Dennison states its 20 days once the decision is filed with the Town Clerk, and they don't get filed right away but we're willing to work with you here. We're just concerned over the lack of neighbors. My sense is that we ought to continue this and suggest you reach out to neighbors but...
- Joe Hicks states they're upset with moving and continuing and we've been looking for a space for 3 years for a space. Everyone is concerned about this noise, which I wouldn't tell you a lie, it would come back to bite me. We're pretty quiet. Most of the guys wear headphones listening to music while using tools. We have no desire to upset the neighbors
- Judith Barrett states Mr. Chairman can I speak
- Wayne Dennison states of course
- Judith Barrett states we as a Board do not have an obligation to seek out Abutters for comment. We have an obligation that Abutters are notified, they have to take responsibility. If they were present the night we opened the Public Hearing that we unfortunately had to continue due to a zoom issue that none of us could have controlled, but if they were present, then they would have known it was continued until tonight. If they were concerned, they would have been present here tonight or they would have submit written comments. It is not our job to go seek them out. And frankly, it is not the Applicants job to seek them out. It is our job to notify them. I get really frustrated on this Board when I see how hard it is for small businesses to establish themselves in Duxbury. We put people through some crazy hurdles that are not fair. The use is listed, the hearing is noticed, it's our job to go through the Special Permit application and make a determination based on the material we have, and we have to vote one way or another. The Board doesn't want to have appeals brought to us after you purchase this property. You guys have to decide if you're willing to take the risk. We want to alert you as to what can happen, you can tell the Board, we don't want to continue; the Board can then close the hearing and take a vote.
- Kathleen Muncey states I agree with Judi, there is a concern about a nuisance trumping the Special Permit. We don't want you to invest in this and then have this happen.
- Jeff Wodzinski states did the Abutters approach the gym first
- Kathleen Muncey states they couldn't settle it amongst themselves
- Jeff Wodzinski states can I ask, they started working out very early in the morning with loud music and vibration from weights? Was that the main issue?
- Kathleen Muncey states things fell off her walls from the vibrations
- Jeff Wodzinski states that makes me feel even more confident. We don't bring any of that to this property.
- Kathleen Muncey states there was a little kid's gym there for many years with no complaints.

- Jeff Wodzinski states we want to paint and make the space more approachable. We want to welcome people, we want it to be more opening. To me, the property looks half rundown, we would be improving it.
- Jim Wasielewski states is there ever a situation where someone with an idling truck would be dropping off supplies?
- Jeff Wodzinski states early? Most of our deliveries happen around noon daily (fed ex and ups), if we get a wood delivery, we can dictate the time for wood delivery – no early mornings.
- Philip Thorn states I agree with Judi, he's taking a sizeable risk purchasing, close the hearing and take a vote
- Wayne Dennison states I disagree fully, we are charged under our Special Permit requirements with whether this will be a detrimental use in the neighborhood. We have heard they are going to run heavy equipment 75 feet away from the open door. I have no idea how loud this equipment is, I don't know how it will affect the neighborhood. So the fact that no one showed up here, ok, we don't have people who have weighed in. We cannot defer from our responsibility as to whether this is a detrimental use.
- Phil Thorn states well maybe we ought to arrange for a site visit at their current location and have them fire up all if the machines and run a piece of wood through it
- Wayne Dennison states that's a great idea
- Joe Hicks states we've had our shop in two other locations, one neighbor was someone who sells musical instruments with cases in there, right next door with no issues; it was a shared wall, no noise issues
- Judi Barrett states Mr. Chair, this is one of those rare moments that I disagree with you. This is a Special Permit for use, so the criteria have nothing to do with section 6 of 48. This is section 906.2 in the Bylaw; if the Board thinks we need proof positive every time we need to change our application forms, so that they don't have to go through this; The Applicant needs to know. I think that's silly, but we have to be direct if abutters don't show up to a Public Hearing, then they don't have a concern.
- Freeman Boynton Jr states who just signed on
- Judith Barrett states I don't know, but I have to sign off for another appointment
- Philip Thorn states on record I agree with you completely
- Wayne Dennison states it's up to the Applicant
- Siobhan Perenick states hello?
- Jeff Wodzinski states take a vote
- Siobhan Perenick states may I just make a comment, 24 Chestnut Street, we had a family emergency and we are late
- Wayne Dennison states do you have any input
- Siobhan Perenick states hours of operation?
- Judith Barrett states I have to leave, do we have enough?
- Jeff Wodzinski explains the hours of operation daily M-F
- Siobhan Perenick states deliveries?
- Jeff Wodzinski states Ups, FedEx and then wood delivery once every two weeks roughly
- Siobhan Perenick states is the big front door going to be reopened



- Jeff Wodzinski states yes, we'll need to get deliveries there
- Siobhan Perenick states but once or twice a week, during normal hours
- Jeff Wodzinski states yes, normal hours. We've never opened on weekends
- Siobhan Perenick asks but no super early mornings, no late nights
- Jeff Wodzinski states never past 4pm, it's rare and we start between 6:30am – 7am. But no doors will be open and we wouldn't open the big door anyways because it's the door that opens directly to the neighbors
- Siobhan Perenick states ok
- Jeff Wodzinski states which house are you
- Siobhan Perenick states we're right behind that big door
- Jeff Wodzinski states ok, so there are 6 people that work here, average age 40's and 5 days a week
- Siobhan Perenick states as far as equipment noise, I can't imagine it being any noisier than the gym
- Jeff Wodzinski states No, quite honestly, it's a low hum
- Wayne Dennison states ok, so timing issues, you'd like us to move this forward-is there anyone else from the neighborhood? Ms. Perenick any further questions?
- Lauren Haché states she dropped off
- Wayne Dennison states ok, alright, we'll give it a couple more seconds
- Borys Gojnyecz states if I were the Applicant, I would feel uncomfortable
- Wayne Dennison asks so Jim, you have the longest history, can you describe the issues
- Jim Wasielewski states the main issues were excessive noise, vibration, early morning (4:30am) actually sat in house at 5:00am to feel this. The all-day use started aggravating more. Dropping heavy weights, vibration. I don't anticipate your use creating vibration, it's more of a low noise that can be contained. The hours fit in nice, Duxbury doesn't have a noise ordinance.
- Borys Gojnyecz states sis they say they want to reopen the big door?
- Kathleen Muncey states but it's 15 minutes once or twice a week
- Joe Hicks states usually it's during our lunch hour, so the machines aren't usually running
- Siobhan Perenick states sorry, my phone died
- Jim Wasielewski states Siobhan, we went over previous issues – the noise and vibration in the early morning, are those are your concerns? I did bring up the fumes from finishing-there is no onsite finishing
- Siobhan Perenick states ok, I don't have any other questions. This sounds like a great deal for the neighborhood
- Jim Wasielewski states also, there are no early morning idling trucks
- Siobhan Perenick states that is wonderful, I am thrilled
- Wayne Dennison states ok, I think those that have weighed in, we have talked about imposing some conditions – hours of operation not before 6:30am-Freeman?
- Freeman Boynton Jr states days of the week, Monday through Friday with the occasional Saturday?
- Jeff Wodzinski states we work Monday through Friday with the goal of a small showroom, so if it was Saturday, it would be Saturday to show

- Freeman Boynton Jr. states limit starting time?
- Joe Hicks states no
- Freeman Boynton Jr. clarifies, no on Saturday's
- Joe Hicks states oh sure, 8am?
- Wayne Dennison states so that door for deliveries, if we limit it to no equipment running with the door open
- Jeff Wodzinski states I understand the new rules, but no one has heard the machines run
- Wayne Dennison states well, we're trying to craft some conditions to protect neighborhood, but with respect to your business
- Jeff Wodzinski states I understand
- Wayne Dennison states any other Member of the Board?
- Borys Gojnycz states I think we're covered, I'm less concerned and ready to vote
- Wayne Dennison states hours of operation, limit machines to 6:30am on, would you like a later period
- Jeff Wodzinski states so there is a time limit, yeah we'd take 5-6pm
- Wayne Dennison states before 6:30am and after 7pm? Consistent
- Jeff Wodzinski states yeah
- Joe Hicks states I think, yes, but the woodworkers/employees have their own projects and no we're limiting them, creating hard rules for our employees
- Kathleen Muncey states what is the hours were primary business hours of operation
- Wayne Dennison states 6:30am-7pm and 8am-7pm weekends as primary, so you'd have fudge room
- Freeman Boynton Jr states 7pm is kind of late
- Kathleen Muncey states 6pm how about for all hours
- Jeff Wodzinski states well...
- Kathleen Muncey states primary
- Jeff Wodzinski states yes
- Joe Hicks states absolutely, we appreciate that
- Freeman Boynton Jr states before you move forward with the purchase, still try to meet with the neighbors
- Jeff Wodzinski states I will, I'll head your advice, yes
- Wayne Dennison states any other questions, I move to close
- Kathleen Muncey second
- All in favor Wayne Dennison, Kathleen Muncey, Freeman Boynton Jr., Philip Thorn, Borys Gojnycz
- Wayne Dennison moves to approve the Special Permit with conditions of primary hours of operation 6:30am-6:00pm and 8:00am to 6:00pm weekends, deliveries scheduled during primary hours and no machines running when the big overhead door is open.

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

Moved: WD

Seconded: KM

Number in favor: 5

Number opposed: 0

**Motion: It was moved, seconded and unanimously voted to grant the special permit #2020-10 with conditions.**

Moved by: WD

Seconded by: KM

Number in favor: 5

Number Opposed: 0