

**Zoning Board of Appeals
Town of Great Barrington**

Minutes of the Tuesday, September 21, 2021, 7:30 PM meeting

The meeting was held via Zoom Video/Telephone Conference as stated on the agenda.

Chair Majdalany called the meeting to order at 7:30 and welcomed new alternate member JB Brodeur to the board. He then called the roll:

Members Present:

Ron Majdalany Carolyn Ivory, Stephen McAlister, Madonna Meagher, Michael Wise, and alternate member JB Brodeur.

Also Present: Assistant Town Manager/Planning Director Christopher Rembold, and Town Counsel David Doneski

Reorganize / Elect Chair and Vice Chair:

Ivory nominated Majdalany to be Chair, Ivory nominated McAlister to be Vice Chair, and Meagher nominated Ivory to be the Clerk. There were no other nominations.

Motion: Wise moved to elect the slate as nominated.

Second: Meagher seconded.

Vote: Ivory-aye, McAlister-aye, Meagher-aye, Wise-aye, and Majdalany -aye (passed 5-0).

Public Hearing: *to consider an Appeal filed by Justin Henderson, 810 Loma Drive, Hermosa Beach, CA, appealing the Building Inspector's July 16, 2021 order to cease and desist the use of 145 Hurlburt Road, Great Barrington, as a commercial event venue.*

Justin Henderson summarized their appeal. He said we do not operate this property as a commercial venue. We rent out the house and there have been a few weddings. There has been no other event other than a wedding there. Those are essentially private parties. Abigail Henderson said they were in fact married there. She added there has never been more than 150 people there for a wedding. He said there has been only one wedding this year, and since 2017 there have been only four weddings. He said the letters from abutters are filled with slanderous and false allegations. He said we have never sold alcohol there either. He said this seems like a targeted action against our property. He said it has been misclassified as a commercial venue when it is a short term rental, and they should be able to use private property in this way.

Wise asked if the Hendersons were present for any of the four weddings. Mr. Henderson said no his property manager, his sister in law, was present. She stays there when it is not being rented. Wise asked what the parties paid for the weddings. Mr. Henderson said they pay an event fee in addition to the short term rental fee and the fee varies \$2,500 to \$7,500.

Ivory asked if one the letters was correctin stating that after the Cease and Desist Order there was still an event there. Mr. Henderson said no. The Town did not issue the tent permit and the Henderson's said the event had to be moved to another venue. It was moved to a farm. The guests stayed at the house though. He said there is no law against people staying at the house and having fun.

Majdalany asked Town Counsel to weigh in. Doneski said there are two issues being discussed here, and the short term rental is beside what is before the Board. What is before the Board is gotten at by Wise's questions, and that is, is the property being used for the purpose of holding events there. That is the use in question here.

McAlister asked what the short term rental was. Mr. Henderson said they have a seven day minimum stay, and wedding family has to stay on premises as per their rental agreement. McAllister said then you could have 52 short term rentals per year. Henderson said that is correct in theory, but actually they have averaged only one per year. He said even the event fee is a fuzzy area, because in theory we could just charge more for the rental, and it would not be an event fee. He said that's not what they will do—we will comply with this Board's order—he was just pointing that out.

Wise asked if the neighbor's representation of the house's website was accurate. Mr. Henderson said when they created the website four years ago we did have mention for corporate events, but that was a long time ago. We have never actually done that; we've only had family weddings. He said we can alter the website based on tonight's decision.

McAlister said in theory somebody could buy the property and think that it could be used as a commercial venture to host an event every week of the year. He said that is beyond what a residence should be used for.

Mr. Henderson said in their short term rental agreements they limit guests gatherings to not more than 25 people. He said that is why there is a separate event agreement and that allows them to limit the number of events and in what months they occur. He added that if they actually had problems with events he would have heard from the police, and he has not heard from the police.

Rembold noted the following letters were received into the record:

- One in favor from Sima Mansouri of 143 Hurlburt Road.
- One in opposition cosigned by five households on Cornwall Drive.
- One in opposition from Patricia Fulco, 149 Hurlburt Road.
- One in opposition from Terrance & Joanne Cooney 148 Hurlburt Road.
- One in opposition from John & Ann Miglioccio, 150 Hurlburt Road.

Majdalany asked for public comment.

The following people spoke in opposition to the appellant's petition.

Rik Kabel, 5 Cornwall Drive. He is a direct abutter. He said family weddings are fine, but the Henderson's have an established LLC in order to generate business income from here. The uses for which they rent their property are disruptive and should not be allowed in a residential neighborhood.

Janice Kabel, 5 Cornwall Drive. He said their lives in the neighborhood have been disrupted by activities at the site, most recently by an event in June. She said the events also have deliveries and noise from trucks with compressors. She said she has called the police, and the police have notified people on the property to abide by the town's noise ordinance.

John Miglioccio, 150 Hurlburt Road. He said he thought this was just a loud residential property. He said he would have complained more about the noise and events had he known it was a commercial venture. He has evidence on video, taken from his own kitchen across the road, and you can hear music from the subject property.

Bob Grant, 3 Cornwall Drive. He said they do not have peace and quiet. He said the Henderson's are not complying with residential zoning laws and they should cease and desist.

Benny Barak, 6 Cornwall Drive. He said he has lived there since 2014. He said there was an unbelievably noisy weddings at the site and even in his soundproof home they could feel the vibrations. He said the use of the site is negatively affecting the value of nearby homes.

Joanne Cooney, 148 Hulburt Road. She said they have noted parties at the site on several occasions. She said she has witnessed a bus bringing a load of people to the site.

Susan Eiffert, 18 Egremont Plain Road. She abuts the property's tennis court. She has noticed increase traffic in recent years. She always thought they were family gatherings but the issues have happened with more frequency. She said the events cause a loss of peace and enjoyment, and an increase in traffic.

Paula Kurman, 8 Cornwall Drive. She added that the noise and the vibration from the music is disruptive.

Barbara Barak, 6 Cornwall Drive. She said the site is being used for commercial purpose and she is concerned for our residential rights.

Wise said "commercial event venue" is not in the table of uses in the zoning bylaw. Doneski said the Town's bylaw states that uses that are not expressly permitted are prohibited.

Motion: Wise moved to close the public hearing

Second: Ivory seconded.

Vote: Ivory-aye, McAlister-aye, Meagher-aye, Wise-aye, and Majdalany -aye (passed 5-0).

Wise said perhaps something like this could possibly be permitted by special permit as a country club, but they do not have that, so he is inclined to uphold the order.

Motion: Wise moved to affirm the Cease and Desist Order and deny the appeal.

Second: Ivory seconded.

Vote: Ivory-aye, McAlister-aye, Meagher-aye, Wise-aye, and Majdalany -aye (passed 5-0).


Wise will write the decision.

Minutes: The minutes of April 20, 2021 meeting were not available for the board to act.

Citizen Speak: Mr. Henderson said he respects the board's decision, and that he is easily reachable for people to reach out to at any time. He said they will abide by the decision tonight and will alter their website. He did not give permission to neighbors to trespass on his property at today's site visit.

Majdalany adjourned the meeting at 8:17 PM.

Respectfully submitted,


Christopher Rembold

