



**BOARD OF APPEALS
TOWN OF WINTHROP
MINUTES OF MEETING**

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TOWN CLERK

WINTHROP, MASS.

Held on Thursday, December 1, 2011
Town Hall – Joseph Harvey Hearing Room
WINTHROP, MA 02152

Chairman Paul W. Marks, Jr. called the public meeting of the Board of Appeals to order at approximately 7:04 p.m. In attendance at the hearing were the following Board Members Irene Dwyer, Brian Beattie, John Rich, Fred Gutierrez and David Ferreira. Also in attendance were Joanne M. DeMato, Board Secretary/Clerk, Building Inspector Jim Soper, and Fire Captain Ned Hazlett.

The following matters were heard:

AGENDA: Hearing of the following application(s) for variance and/or special permit and deliberation of pending matters and discussion of new and old business.

1.	#016-2011	82 Faun Bar Ave.	Clearwireless , LLC *	PM/BB/ID
2.	#019-2011	154 Adams Ave.	Semyon Dukach/ East of Air Realty. Tr.*	PM/FG/BB
3.	#021-2011	55 Cliff Ave.	Jeffrey Werrick	PM/FG/JR
4.	#022-2011	205 Winthrop St.	Khalid Lahlali	PM/BB/ID
5.	#023-2011	100 Sargent St.	Joan J. Roth	PM/BB/FG
6.	#024-2011	1 Baker Square	Cottage Park Yacht Club	PM/FG/JR
7.	Approval of meeting minutes			

* Continued from October 27, 2011 meeting

#016-2011 – 82 Faun Bar Avenue – Clear Wireless, LLC.

Sitting: PM/BB/ID

In Attendance: Attorney Scott Lacey from Prince Lobel

PM: This is a continuation from a previous hearing.

SL: Good evening, when we were last here the Board had requested Clearwireless' to shut off the electricity to their site. Unfortunately shutting off a site that's has been integrated into a network is complicated. So, the way that the network works is there is coverage that is generated immediately around the site so there are coverage maps that was submitted with the application showing the coverage to the residents of Winthrop the area around the site. Additionally as part of the site and to say now to compete with Verizon there's the dishes and what the dishes do is they not only take information from that site the Winthrop area but they also receive and transmit information including data from other sites. So basically if you picture the panel antenna propagating a signal around the Water tank in the Winthrop area and you have the dishes that also take that information as well as receive other information from adjacent sites. One of the adjacent sites in particular the water tank receive information is the Logan Airport. So if this site was shut down that would not only adverse the effect the customers and residents in Winthrop that use the service but also the adjacent sites that link to it in Logan Airport. SO the client respectfully requests that the Board close the public hearing and vote and hopefully that will bring this to a resolution one way or another in respect to whether a site can operate there or not but that would be their request. Because once a site on integrated and shut it off it has a ripple effect and affects other sites and not just the site so that was the request from my client.

PM: I guess the start of this was the letter from the BI that rescinded the permit.

JS: That's correct, revoked the permit.

PM: Revoked the permit for this. So your permit was revoked. The work should have never proceeded to have the site up and in operation and therefore it shouldn't be running.

SL: The site was constructed before that took place that was my understanding.

PM: Before the permit was issued?

SL: Before, my understanding that letter was dated April, in terms of that, that was after the neighbors had appealed the issuance of a building permit and after the permit had already been issued. My understanding is was that the site had already been built prior to.

JS: The site had never received its occupancy permit which would allow that cell tower to operate so technically they started it up before they received their occupancy permit at that point the horse is out of the barn and they running, At this point we have little or no recourse, we seek to have them stop an injunction

gets ordered more or less from the business end from stopping their business, I thinks back on the Board of Appeals to make a decision on this and go forward, unfortunately I don't think we think can do anything.

PM: OK. Last month there was a document presented an engineer and we gave Mr. Clark a copy of that and because he is familiar with that type of information, I am going to allow him to address something that he's a chance to take a look at it and give us your opinion.

SL: The Don Haes report?

PM: Yes. Identify yourself for the record please.

JC: James Clark, the direct abutter to the water tower. I'm an electrical engineer. I have a chance to look at it and I think he's pretty much made my case for me. If you look at page 3-12 in the report, where he emphasizes the point, he says at the middle paragraph at the bottom – 'In many cases the use of the equations such as Equations (3) and (4) will result in overly conservative "worst case" predictions of the field at a given point.' - and when you talk about RF safety that's exactly what you want, you want worst case for your analysis. Just in case you always have to assume worst case. Then he goes onto to say – 'if the information concerning the antenna's vertical radiation pattern' in terms show how the radiation is propagated in a certain direction, 'if the vertical radiation pattern is known, it can essentially allow for a better realistic concluded.' And that's exactly my point I don't believe they had any data from those antennas. The amount of antenna and steel structures could put a back point behind the antenna and really don't know in which direction the energy can go to. They throw these things up with little or no analysis; they have no concrete data one way or the other about energy and radiated space. In the rest of the document, in no way do they address the fact that their antennas are operating in conjunctions with the guys that are already up like AT&T and whoever else is up there. And when you do the analysis you have to take into account the effects of all the antennas combined that are up there and this report makes conclusions that the only antennas that are up there are only Clearwireless', so they make no consideration of the site which they are required to do.

PM: So their inconclusive report in your eyes to say that this only dealt with the Clearwireless antennas but nothing else up there which you look at it as a whole not an individual.

JG: That's right. There are requirements against the site in particular. You have to look at the site as totality of all the emitters at the site and that included the emitters of Clearwire's and those of ATT or whoever else is up there now and as far as the ___ results. You can test these and come up with answers anyway you like. The fact is that these are time averaged towers, they way they measure these is time averages over a certain time so you get a lower number than you would of the power coming out of the antennas and when you take a peak power you get a significant above for the whole year. The time averages washes out outliers. So that's really all I have to say about it.

PM: OK, thank you.

SL: May I respond?

PM: Yes you may respond.

SL: Don Haes, one has been acknowledged as an expert both by Massachusetts's clients and in other points in the country and by the FCC and is actually on the board that sets the FCC standards so our perspective actually stands for itself. There were two reports submitted and my understanding is that they did factor in the cumulative emissions.

PM: But if it didn't state it in the report how can you?

SL: I believe the first report submitted did state it. Second the response to the materials that the abutters submitted at the first meeting, he had submitted his own report and this was in response to it.

BB: He never visited the site though did he?

SL: Yes he did.

BB: Didn't he say that he didn't visit it at the last time?

SL: Don Haes has been to the site, he took pictures, there are pictures of the site and he took readings from the site. That's my understanding. I can see if it's in his first report because I think he also did the initial analysis.

BB: I'm almost positive that he said that he did not visit that site.

SL: I'll submit the reports.

PM: Question from the Board, Ms. Dwyer?

ID: I have two sets of concerns here and I'm not sure that I am able to ask about the energy things adequately so I'll just ask the questions that I would be able to understand easily. I'm really concern about the structural safety of the top of that tower, it's old, it's exposed to salt air all the time, and it's all on one side, and the abutters are really, really close. I haven't seen yet a report or response that would tell us that some structural engineer has recently looked at this stuff and told us and where in the reports are that?

SL: From my perspective I think the easiest way for the board to resolve that information, if they were inclined to grant the special permit for a telephone exchange one of the ways there would be to grant to the condition that the applicant goes out and forms a structural analysis of the railing and whether the equipment is being attached to and that report gets provided to the Building Inspector and the BI reviews it and makes sure it's meeting the appropriate standards for that type of analysis but this way you'd have something current that you'd have in your files with respect to that which should adequately reflect both ___ Clearwire is currently there and you have the current ATT equipment so it should be a current snapshot of whether or not the tower is structurally all set from an equipment standpoint.

ID: I hear what you're saying in actual but we're missing each other here. What - does any part of your submission have that information if not what can we do to get it.

SL: The materials are submitted from EBI which has standby instructions here I wasn't able to have EBI engineers attend the meeting so there's going to be an

open issue, they stamped, from their perspective they're stamping that saying that there information its structurally safe, the Board is not satisfied with that, that's what I'm saying one of the ways you could approach that is condition it for the additional test but that was a stamped ___list submitted by EBI.

PM: And did they visit the site?

SL: I couldn't confirm the engineer who signed that I couldn't speak to so I didn't know whether he himself went to do it. So that letter is just going to speak for itself because I personally don't know whether or not he went to the site. I know the site has been visited because every cell site has to be visited when you're designing it you need to know obviously where the utility connections are, how you're going to actually attach your antennas so I know the site has been visited I just don't if it has been by that particular engineer.

ID: This is one of the things that we went over last month because we asked for a letter from your PE saying he's actually been up there and you were going to discuss if you could turn the thing off and report and you were also going to bring us a letter from the PE.

SL: That's what I ___

ID: I'm sorry?

SL: That's what IBM saying I tried to obtain him to come I just wasn't able to confirm with that engineer whether or not he went to the site, so as of right now the letter speaks for itself, it's a stamped letter., its says based upon calculations I cant confirm whether he did or didn't visit the site I do know the sites have to be visited because they have to be designed so based upon practice from what I've seen construction sites they had to be visited but without that in writing and without being able to submit to the Board that's just my opinion based upon past practice.

ID: Let's make sure we're talking about the same engineer here. You've got a structural engineer and I'm talking about Mr. Haes.

SL: Correct this is the letter, this is the one the Board said Based on structural calculations so that was the concern.

ID: Which number in the submission was it?

SL: This was submitted I believe 2 or 3 meetings ago. The chairman has it. I was able to have the engineer attend and confirm whether or not he visited the site.

PM: I think that was one of the first questions we asked did the engineer that did this report did he actually visit the site and see the conditions there because those were some of the concerns expressed by members of the Board here so we still don't have an answer.

ID: The letter is ambiguous it could be any meaning it just said based on the structural calculations completed so I don't know how he got the information that he had or if he was just working from a model.

PM: Anything else Ms. Dwyer?

ID: No, yes, I'm sorry. Didn't we also ask whether Mr. Haes had actually been to the site?

SL: My recollection, Mr. Haes has been to the site and he did submit two reports but I'll absolutely stand by Mr. Haes' report as an expert in this particular field and putting aside whether the aspect of the health aspects regardless of that.

BB: Quick question, you were saying earlier if this was disconnected which it wasn't it was suppose to be you would have had a problem with Logan Airport?

SL: So basically.

BB: Can I ask the question, so Logan Airport connected before this?

SL: I don't know when Logan Airport was connected at that site _.

BB: So obviously that site was connected before this one?

SL: It's not so much connected the way it....

BB: I know but Logan Airport was working prior to this one going up?

SL: I don't know how long Logan Airport was or was not working before this one I don't the exact dates that Logan Airport was turned on.

BB: But it's been on longer than this one?

SL: I don't know when it was turned on. Obviously Logan Airport is a primary site so obviously it's a targeted site whether or not its turned on before this I don't know I can confirm that for you, it's a the issue is the dishes just shoot in one direction the panels antennas the vertical antennas this is the existing site, these are the panel antennas, these panel antennas are probably going to signal around the town so that's the footprint in Winthrop the dishes that the carriers are using your take home information from this site and they are shooting it this is aimed at another dish at another site that's going to receive it so you have the panel antennas have this footprint going and above them the dishes are shooting stuff to the neighboring sites so they receive and then they are aiming somewhere else so it creates like a highway for data traffic and that type of information so one of these dishes is aiming towards Logan Airport so it both receives and transmits data from Logan Airport so if that dish was shut down Logan Airports they get that information they're shooting that information it goes into a black hole it doesn't go anywhere because there is no dish to receive it and then redirect it along the highway so from that standpoint, Logan Airport would still work it would still be – Logan Airport and when it comes off Logan Airport and goes along the dishes it would and once it got to the water tank it would basically be unconnectable.

BB: It just seems to me that Logan Airport was there first and now you're saying that it wouldn't work correctly without this one here Logan Airport at some time had to work correctly before you put this one up there.

SL: I don't know whether Logan Airport was first so I would need to confirm that.

BB: I have no more questions.

PM: Just some information from the members here, 145.20 in the zoning chapter has to do with accessory uses, Accessory use antennas and satellite dishes, antennas are not permitted in Business A, are permitted in Business A in light manufacturing districts only, this area up there is a residential area and talk about accessory to a house in this case we are talking about to a water tower

and the water tower stands alone as it is it is providing water pressure to the Town of Winthrop. In the past several utilities have put antennas up there which have come before this Board and I don't think any were approved because we can't satisfy the use as an accessory to the water tower, it has nothing to do with the water tower operation providing water pressure to the Town of Winthrop so I just bring this to your attention because what we are looking to do here and by statutes we have to operate granted that there are health concerns about what Mr. Clark had said and what we've heard in the past here we have to look at this strictly on a zoning type issue and a zoning issue this is what I can see that's in our bylaws that govern us to decisions that we are trying to make and hearing the information presented here by counsel and other supporters of them they are leading into question that the Board has raised and I don't think we had some answers on it so I guess that look at this if anybody else anything else to say I think we should bring this forward. I ask if there any another questions from the Board here?

SL: Can I just ask a question?

PM: Sure.

SL: I just want to clarify you're saying that it shouldn't be treated as an accessory use because that's what the zoning board found in its prior decision that it's not an accessory use so the analysis is whether or not it's a special permit telephone exchange which is allowed in a residential A zoning district, I just want to clarify that.

PM: So if you consider this a telephone exchange again it's permitted and the question is that there are various it would be up to the Board to make that decision and their prerogative how they looked at it and took the information that was provided and made a decision on it.

SL: And that was the point in terms of that was the mechanism by which Cingular or ATT, which is currently on the water tank, was permitted. So they were given a special permit it was conditioned by the Board with respect to their operation.

PM: At this point here I'd like to open it up to the Board to see what the pleasure of the Board is?

ID: I'm losing the procedural ___ here.

PM: Do we have any more questions?

ID: I have a question of what exactly the issue is before us? We know that the occupancy permit wasn't issued.

PM: But that's not before us here now.

ID: It isn't, ok.

PM: No or the letter from the BI is not before us. What's before us is these people come in and want a special permit to establish a telephone exchange up at the water tower and we've been back and forth and we've have documents submitted and there's been an engineer and an analysis of it the question is, is that is the information correct and can we vote on this positive or negatively and not being satisfied with the information I think that's where we are right now. I

ask the other members of the board that aren't sitting on this if they have any questions they would like to ask on this otherwise I think we should move it forward.

FG: I have one question regarding sound I know there was a concern a couple of meetings ago the generator being a nuisance?

SL: Whether or not there is an existing generator at the site there is no proposed generator with respect to Clearwireless their equipment is going inside the existing building.

FG: I'm just saying that if there is a loss of power the power from my understanding there is going to be supported from the existing generator there's got to be some back up generator.

SL: There's back up battery and if there is an existing generator then they have a legal right to connect to it then they would have to connect to the generator. Some carriers just install their backup generators and it's just for them.

FG: I guess what I'm saying that if the Board would to support the request is there would meet sound regulations in the town and they would contribute to upgrading the existing generator to meet those requirements.

SL: Clearwireless' equipment has to meet all of the town's regulations with regards to contribution I can't agree to that on behalf of my client only because I don't know whose generator that is and whether it does or doesn't comply with applicable standards right now but absolutely Clearwireless' equipment has to comply with applicable noise standards.

FG: Well if they use that generator it becomes part of the equipment.

SL: And that would be they're _ at that point if they're using that generator. But if they're just using back up battery then that wouldn't necessarily comply to them.

PM: What's the pleasure of the Board?

MOTION: (BRIAN BEATTIE) – At this time I would like to make a motion: To uphold the decision of the Building Inspector and deny the permit for Clearwireless.

SECOND: (IRENE DWYER)

SD: There was a request for a variance too.

BB: It's closed, it's closed.

PM: Attorney Donahue we are not taking anymore.

SD: I just wanted to mention to you that there was a request for a variance also I believe in their application.

SL: It was in the alternative, but I understand his point if you're going to deny then you can say you're denying everything and that will address his concern and protect the Board.

PM: Ok, we have a motion before us and seconded. Any discussion on the motion? The motion here is to deny the request of Clearwireless for an antenna on the water tower based on the application that's been submitted.

VOTED: ALL IN FAVOR

PM: We'll get you out a decision.

SL: Thank you.

#019-2011 – 154 Adams Ave., East of Air Realty Trust, Semyon Dukach

In attendance: Attorney James Cipoletta

PM: Good evening.

JC: Mr. Chairman and members, James Cipoletta, 385 Broadway, Revere, on behalf of Semyon Dukach and East of Air Realty Trust, at this time, Mr. Chairman, the appellant seeks leave to withdraw his appeal. That's it. We've worked out something with the Building Commissioner in court so we don't need to proceed here.

PM: OK, thank you attorney.

#021-2011 – 55 Cliff Ave. – Jeffrey Werrick

In attendance: Jeffrey Werrick, Attorney James Cipoletta

Sitting: PM/FG/JR

PM: Good evening.

JC: Hello, Mr. Chairman and honorable members with me is Mr. Jeff Werrick, the owner of the property. Mr. Werrick challenged the records of the Town of Winthrop, which established by the prior BI or 2 BI's ago the use of a 2-family dwelling upon which our current – Mr. Werrick contends and has been ___ a 3-family dwelling. In contradiction to the 20__ certificate of occupancy, which is in the BI files and which, the BI relies in denying our certificate of occupancy as a 3-family dwelling. It doesn't seem to be clear how or why Mr. Gauthier did what he did 2005 6 years ago and determined that it was a 2-family house we don't know whether he did it as during at a closing or the as a result of the owner, its unclear in the building file although Mr. Werrick states the layout of the house is traditional of a 3-family and there is parking that will in the court declare with the application will support parking for a 3-family under the ordinance and we actually did a walk thru with the building, plumbing, electrical, who else, a couple of months ago and that might be one of those instances where the board actually needs a site visit or view. The pictures just don't do it I tried. I know the board in other cases saw fit to actually eyeball it for themselves and Jeff will make it available but it appears that all of the utilities are there separately and have been and there's no request for a parking variance so we would request in its judgment see fit do a site visit and conduct a view.

PM: Anything else, Atty. Cipoletta?

JC: Not unless Jeff has something to add.

JW: I know that the previous owner before me used it as a 3-family, 3 apartments,. Illegally, the owner before them used it as a 3 family illegally, I just want it do it the right way and do any upgrades that are required and conform it to any codes that need be.

JC: That may be a term of art that Jeff's using the term illegally, it didn't comply to the electrical codes but from a zoning standpoint it's legal and I think we'll agree after the walk thru it requires some upgrades to legally comply with the current building codes.

BB: In 1950 –

PM: Let me finish, is there anybody here in favor of this petition? Hearing none, anybody not in favor of this petition? The gentleman in the back states your name.

Kathy Sheehan: I live across the street at 64 Cliff Ave., my concern that if this allowed its going to set a precedent for the future in other homes and will allow another apartment. The neighborhood is a very nice neighborhood but it is congested and it is a concern with parking and the owner of house takes care of the house he isn't an absentee landlord so there are issues that come up with an absentee landlords. There are parking issues we lost parking on one side of the street, we had ___ for the dog, we just don't need anymore situations and congestions to set a precedence for what's to come for other homes in the are that want to put in another apt.

Jay Leo: I'm a direct abutter at 5 Quincy Ave. It's a single-family home speaking on behalf of myself and Steve Iacobaccio who is here. I will reiterate what Kathy said about the neighborhood when I bought about 3 years ago we were told that there was 2 family on either side of us and I did look at that house as well and was told it was a 2-family and told about the history of the 3rd floor that was an illegal apartment that was taken apart by the BI's request at some point. From my front yard, from what I can see there are 8 homes and 20 dwellings so you can imagine the traffic that is there right now. Just 2 weeks ago I got a parking ticket for parking in front of my own driveway because there was no other spots and there's nothing you can do on either side. The driveway is 5 feet from my bedroom window, there are cars in and out, cars idling, doors slamming, and there is a dog that barks constantly. If this is allowed then we remain one of the only single family in the radius and I guess I would have the attitude and I would request that there was at one point an apartment downstairs in our house there's evidence of a kitchen there's 6 windows 2 egresses. I'll apply for a 2 family the way the neighborhood is --.

PM: Thank you, anybody else?

Steven Iacobaccio: Does it benefit the neighborhood or landlord of the house. I don't think its fine; it should benefit the whole community.

PM: Anybody else? Hearing none, closing that. Any questions from the Board?

BB: I've got a few questions here, I went up and took a look at that building, the jacket, 1945, it was a 2 family, 1952 it was a 2 family, 2005 they had to Ernie Gauthier, had them take out complies an illegal kitchen on the 3rd floor and then

he gave them an occupancy permit. When did it become a 3 family? There's no purchase and sale agreement, I don't see that in here it wasn't given to us on anything that we receive. 2005 it was a 2 family inspection records so when did it become a 3 family?

JC: I'm not sure that you're looking at the same thing that I looked at in that jacket the only things that sets a determination of a 2 family is that 2005 certificate of occupancy, everything else that you are looking at are notes for application for building permits and alterations made by the former.

BB: But even the front of the house has two doors, ok, now a 3-decker would have one, two, three and mostly a flat roof, I don't any egress I don't see anything in those two front doors go9ng in there and you have a two car garage in the back with a very small thin driveway going up there. I just have my questions about this.

JC: That is why I actually suggested that this is one of those things that you just have to eyeball.

PM: I think we can arrange that to do it. Mr. Rich do you have anything?

MOTION: (JOHN RICH) – I'd like to make a motion to table this until we have a site visit. Come up with a date and then after that schedule it.

PM: I think that motion would be to continue this based on a site visit to the house. Before we do that, Capt. Hazlett has an item.

NH: Thank you Mr. Chairman just for the record, and for the information, when the house was sold it was sold as a two family, I have a copy of a P & S that states it was a two family, my records of smoke detector installations done by Ideal Electric was for a two family, it met the code for a two family, it did not meet the code for fire code for a three family so all I'm saying that if you so vote, at that point you would have to meet the current code for a three family.

JC: Jeff is aware of that.

PM: Mr. Rich, just to continue with your motion by you to continue this.

JR: Continue this until we have a site visit.

SECOND: (FRED GUTTEIREZ)

VOTED: ALL IN FAVOR

#022-2011 – 205 Winthrop St., Khalid Lahlali

In attendance: Khalid Lahlali

Sitting: PP/BB/ID

PM: Good evening. Would you like to tell us what you are looking to do please?

KL: Yes, I would like to put tables in my restaurant because people have to take the food out and are complaining they want to eat the seafood and fish there.

PM: So you're looking to install some tables?

KL: Yes.

PM: In the fish market?

KL: Yes.

PM: Ok, anything else?

KL: That's it sir.

PM: Anybody here that's in favor of this petition?

Eric Gaynor, Winthrop Chamber of Commerce Executive Director: As we know it's tough doing business and Khalid is just trying to respond to his customers and what he should do. There is definitely a demand for it and he's trying to incorporate into his business and expand it and there does not seem to be any downside and so we would ask that you please consider it his request. Thank you.

PM: Anybody not in favor of this petition? Hearing none, any questions from the **Board?**

ID: The only question I have relates to the definitiveness of the plan. I've been in your establishment so I can visualize instead of the racks of things in the front and but this isn't a very, this is the time of the year when they re-certify all the victuallers licenses and really kind of aware what that entails with sinks and restrooms and stuff like that with the sit down meals. I'd like to have a plan that was a little clearer showing that you have the width 3 sinks and do we have any fire issues here?

NH: No fortunately they have a very good ___ the building that they are in has a fire alarms that is monitored they are current and up to date. Form the Fire Dept. There are no issues.

ID: So you are talking about having ten seats.

PM: I'm counting eight, oh two at the bar. Ten.

ID: Two tables and

PM: Four tables and two at the counter.

ID: They are like the counter height tables?

BB: Up at the top.

ID: Ok, got it. No other questions. What up in the – what is this?

FG: There is stairs and says two and an arrow is that reference to anything?

ID: The copying quality is blurring a number of things, we see the counter and the restroom and this is stairs then over here it says sinks is that part of your space?

DF: I believe it showing two sinks in the top left corner to ___. This picture represents two there's two of those pictures. Correct me if I am wrong, right, there's a sink directly adjacent to the door and one directly perpendicular to that?

KL: Yes.

PM: I presume there is a wall at the end of the second sink? You're cooking is only on the counters? Is that the only place you cook?

KL: Yes, we have a deep sink and the kitchen setback.

PM: And then you have the counters so everything is behind the counter?

KL: Yes the counter is in front.

PM: How long have you been operating this as a fish market?

KL: From May.

PM: Last May?

KL: Yes, I was just selling fresh fish hoping it would be 4-5 weeks then we could **do take out.**

PM: So you just started to cook? Do you know the occupancy was before in that store?

KL: It was a candy store.

PM: Candy store?

KL: Yes, Spinners.

PM: You're not looking for this to be designated a restaurant are you?

KL: Just tables, Id like to help my business, I'm not doing any business right now, that why I need to put the table to make people happy, some people they come to the store and he doesn't find any tables and he doesn't want to eat there.

PM: Another question for you, on your plan you say you still sell fresh fish? Which case does the fish do you store the fish in? Show me on the plan.

KL: It's next to the kitchen

PM: Any members of the Board you have a hard time reading this as far as it doesn't show a case of where they are selling fish and how much space around, it looks like there is all sorts of space for tables but nothing else is in the space here. I'm not seeing any dimensions on the bathroom, any dimensions on the space behind that, I think Id like to see a plan that's dimensions and has some more information on it so we can take a look at it, other people have come in before us that have been given us a plan that's been laid out to scale, scale means that if you put a ruler on it you can determine how much space there is between tables and where the equipment is in here, it doesn't show all the equipment that should be on here. Maybe thru some of your contacts that somebody can give you a plan to scale. I'd like to see that. For other members here how do you feel about it?

FG: Photographs are helpful

PM: That would be helpful as well.

KL: You want me that I do it again?

PM: I would like to see somebody with a little knowledge put some scale to it and to be able to have something that not professional like an architect but something that you can look at its hard to read this its not a very good copy ok and if you get us a plan that we can read and may a couple of photograph inside so we can take a look at it?

ID: Another suggestion would be, maybe you could Photoshop where the counter is going to be and where the fish case being served separately, things like that, you can show us what's proposed to be here.

KL: Thank you so much.

MOTION: (IRENE DWYER) – I move that we continue this hearing to next month and in order to give Mr. Lahlali time to give us a more definitive plan of the proposed seating area.

BB: If you could bring it up at the Town Clerks Office and leave it there we can have you back at the next meeting.

PM: Do it before the meeting so we have a chance to look at it.

SECONDED: (BRIAN BEATTIE)

VOTED: ALL IN FAVOR

#023-2011 – 100 Sargent St., Joan Roth

In Attendance: Joan Roth, Cindy Dell'Isola

Sitting: PM/BB/FG

PM: Good evening.

JR: I am applying for a permit to convert my single family home to a Bed & Breakfast.

PM: There was a recently passed ordinance by the Town Council and what qualifications do you have to present for this?

JR: According to the requirements by the Board consisting of square footage and number of bedrooms that qualify for a B & B. I'm hoping to rent 4 bedrooms.

PM: You're looking to establish a B & B using 4 bedrooms?

JR: Correct.

PM: Why don't you just go through it more what you want to do cause I want you to tell me everything are proposed to do before we close that part of the hearing and have questions.

JR: It would basically consist of nothing as far as reconstructing the home it would simply be determined that 4 bedrooms would be a Bed & Breakfast and the 3 bedrooms would consist of resident rooms. My home is approximately over 5,000 sq. ft. and I would be converting approximately 1,200 sq ft to the B & B and delegating part of the first floor for Breakfast and sitting rooms for guest and parking I have ample parking my driveway parks 6 good size cars and even 8 small size cars so its not an issue with parking. That's basically it.

PM: Anything else?

JR: I think that's it. It's in the application.

PM: Closing that part of the hearing is there anybody here in favor of this applicant? Hearing none. Anybody not in favor of this applicant? Lots of hands, I'll start over here in the corner. Please state your name for the records and address.

John Forristall, 114 Johnson Ave.: I bought the '95, I have 2 daughters 14 & 13, I've noticed in probably the last 5 years basically it seems to me that it's a rooming house right now cause I see different people walking in and out of that place, walking down to the beach and I'm kind of nervous for my kids. The ample parking that she claims she has she doesn't, there's no 6-8 cars in that

driveway, at all. Across the street they park all along Sargent St from the corner of Johnson all the way up, they park in front of my house on Johnson, it's a 5,000 sq ft home, that what she claims, I know that there's a pool in that home, ok? What's going on with that pool in the home, my other concern is, my biggest concern is the safety of my children, basically what I notice is a lot of people from the airlines, that are staying there for the night, leaving the next day, they walk down the beach, its just the safety of my children, that's a residential area, I'm not in fakir of it.

PM: Thank you anybody else?

Mary Forristall, 114 Johnson Ave.: I second that.

PM: Thank you Mary. Anybody else? Right in the front row the gentleman here.

Marty Klim, 91 Sargent St.: I'm right across the street, I've lived there since '76, there's a lot of history with this house and since it was bought it was converted into a rooming house that's correct. Theresa daily activity, people coming and going, mostly from the airport, all garbed in airport uniforms, there are numerous flight crews that have stayed there, the street's blocked all the time, cant sweep the streets, problem with plowing, I would estimate there are times 15-20 people in the house, directly across the street from me, I have a full view of everything that's going on, my driveway has been blocked a number of times, I've had to go over and wake people up, they've had to wake somebody up that's up stairs, you could look through the windows you can see the bunk beds in the place,. There's been fire activity there, police activity there, a lot of history, if you pull the file, there is no fire escapes I strongly advise you not to consider this request.

PM: Ok, thank you. Anybody else?

Ted Connolly, 295 Court Rd.: My wife and I have been there for a short period of time, 3 years, we moved from the center of town, it's a positively beautiful neighborhood, we know quite a bit of the neighbors around us and our biggest concern is the constant unknown that we're going to be faced with as far as visitors coming and going and it probably will be a constant unknown because the house to us looks like its kept well the whole neighborhood is kept well. Again we are just concerned about the unknown, about the visitors are they going to be checked, who are they, what do they do, where are they from, a lot of questions. Thank you.

PM: Thank you. Anyone else?

Kristen Reynolds, 104 Johnson Ave.: I'm across the street, I agree with as John said I also have two teenage children, I'm concerned about their safety, I know people and going as it is in the summer there are porches both the Johnson Ave side and the Sargent St side there's often at night lots of activity on those porches and as Mr. Klim said, there's the parking and cabs often pulling the street is often blocked coming down Sargent you have to wait for the cabs and the cars to move. At one point there was even an attempt to put additional parking on the Johnson Ave side there was a portion of the yard was dug up and it looked like they were attempting to put another parking space there that was

never followed through on but that was something that we were very much against putting on the Johnson Ave side. Again as parents we're concerned about the safety of our children with people coming and going already as it is it was mentioned we consider it be somewhat of a rooming house already and maybe through what's going on tonight that maybe that could be addressed as well.

PM: Thank you, yes sir?

Richard Dimes 105 Johnson Ave.: I'm a direct abutter, I've lived in my home for 51 years, 40 years of that the house in question we're talking about was a beautiful single home and always was used as a single home. Low and behold when the present owner bought it within a year or two we had an illegal boarding house going full blast, it originally gives catering to airline hostesses and pilots who would come in any given time of the night sometimes 1 – 2:00 in the am and would decide to go out on the patio in which I could look out my side bedroom down onto at 1-2:00 in the morning and could care less about the neighborhood. This is a beautiful neighborhood and B & B even though its been accepted in town the fact that it was given the right of you as a Board to decide whether the neighborhood would be impacted by it or not have the right to say yes or not, well this neighborhood it strictly single, it's a very nice neighborhood and I know that I have been tolerating for 11 years as a director abutter for an owner who could care less about a neighborhood and all the bylaws have given Boarding houses.

PM: Thank you, anybody else here, sir?

David Reynolds, 104 Johnson Ave.: I echo the parking concern, the parking on Johnson Ave is I would say intolerable, I have a driveway, there are times I cannot even pull in or out of my driveway because there is parking on both sides of Johnson Ave. this would exacerbate that poorly even more. I noticed during That there are cars parked at that address on the lawn which I cant believe that that is legal and my concern with the coming and goings of the people not just from the airport but with the casino which we all know is coming into Suffolk Downs at some point a certain clientele we don't need in my neighborhood.

KR: One more concern as abutters we were never notified of this hearing and I don't know why that is.

PM: You're going to get your answer right now.

JD: I'm sorry, what did you say your address was again?

PM: The Assessor usually makes up the list and give it to them.

JD: 104 or 114?

DR: 104 Johnson St, right across the street.

JD: What are your names again? No it wasn't on the list from the abutters.

KR: Can you ask in the future that we be notified?

JD: Yes.

PM: Anybody who's to speak? Yes sir?

Robert Porter, 135 Sargent St.: I've been in my house since 1965, I know the house quite well my mother use to own it, and it is what you would consider a

crash pad. Going about probably about 7-8 years ago I was talking to a stewardess who flying over seas and she was telling me how great it was to have a place to stay because she comes from Chicago and she was flying out from Boston and she was here in a room with 3 other girls for the month while she was stationed here. She had about 17 people here that weekend. Another time coming down the street, I stopped at a stop sign, there was a girl standing there I asked her "How many this week-end?" she said "About 14 of us." If you want to drive by if you want to back there right now, go up to the second floor ill lay a hundred bucks on the table right now there are bunk beds on the second floor, you can see them in the window, I just saw them last week. There was an incident with the Fire Dep't going there, I was told second-third hand, I was told by a fire official, they went in on a gas complaint, and there was a problem that they did observe 7 bunk beds between the living room and the dining room. If you want to check the fire law, I think an indoor swimming pool is illegal in the Town of Winthrop. There is noise, I hear people going by my bedroom 2-4:00 in the morning, "Ho, ho!" having a good time, going down to have a joint, have a couple of beers, they're going down to the beach, they just got off a flight, they are unwinding. Cars, I know one of the neighbors here he was telling me this was going back about 2 years ago he got woken up 20 times 2-3:00 in the morning Viking Cab honking to pick up some Stewardess to go to work,. We had a meeting with Mr. White the Town Mgr before, he'll look into it, why don't you just go to Viking Cab and get a copy of their log see how many pick up they have there, if that is a single family that's one hell of a single family. The other thing is what's the town loosing out in taxes, she averages maybe 7 days a week maybe 10 people a day that's 70 they are paying in, doesn't the town deserve some taxes, why should we support it, it's a commercial business, that's it. I think a site visit tomorrow morning at 8:00 am would be appropriate.

PM: Thank you, can we get to anyone else we haven't heard from?

MK: Do you access to records from the former BI visits to that place I believe when beds were ordered order to be removed from the facilities and I know that there were some fire inspections done and I know that there were 2 fires in that location do you have access to those kind of records?

PM: We do we have a jacket that is in the Building Dept office that would contain anything that would contain if the went to file a permit for anything.

MK: I know because there were meetings in the past with the BI, the FI, the CP, Mr. White, a number of neighbor, I was included in those meetings, just attempts to try to get this situation straighten out up there, this goes back over a 10 year period. If you look on the street I've seen plated from every state in the union except Alaska parked in front of my house.

PM: OK thank you, anybody else?

RD: I have a letter from one of my neighbor that could make it due to their health I would like to put it in for the record.

PM: Ok, thank you, anybody else we haven't heard from?

PM: Half a minute Mr. Porter.

RP: There's a great compact car with Florida plates that's been there for 5 years at least but who ever he is works at the airport there and whoever he is has airport work gear on and comes home around 7:30 in the morning he was there when police come by tagging but his registration should be in Mass. It's been at least 5 year the same person, Florida plates.

PM: Thank you, anybody else? Hearing none, closing that part of the hearing questions from the Board? Ms. Dwyer?

JR: Could I make a comment?

PM: No, in a second. We're going to ask you some questions right now. Mr. Beattie?

RD: Mr. Chairman there is something else I'd like to take into the record.

BB: I do have some questions here, as far as the existing is this the sign you wanted put up? I take it that Winthrop By the Sea, that's your phone number?

JR: Yes.

BB: I did look thru the package and it seems like you go back to 1997.

JR: Correct.

BB: Running an illegal B & B?

JR: No.

BB: Well it seems that zoning enforcement was there and back in operation in '09, you paid \$400 for 4 violations you had the fire dept. there you had 4 housekeeping letters, you had pictures here of 24 beds in your house. 2 people living there said that paid, we have in the jacket is a check made out to you a cancelled check for \$550. We had the police there incident report in '03 you threw the person the out, Mrs. Cahoon, remember her, you went to court with her?

JR: Yes.

BB: OK, I just wanted to refresh your memory, unsafe and unsanitary, dogs, bathrooms; you have Atty. Kevin Hensley or something?

JR: No my attorney is Bill DiMento.

BB: OK, now you said that is your phone number, I happen to have an ad here the Air Travel Journal with an ad, with your phone number?

JR: Yes correct

BB: And your advertising renting rooms.

JR: Yes and that dates back I'm sure to probably 1998.

BB: 1997 but you got the phone number

JR: I've had that phone number I've been in Winthrop for over 20 years I've had that since the day I moved into Winthrop.

BB: Well that's fine but you were running ads for a B & B.

JR: Correct and right after I bought the house I did not realize that there was an ordinance against it the BI gave me a call I came down to Town Hall and at that moment there was never another ad.

BB: Are these yours here "Hello everyone", these were take out of your, was given to us.

JR: Probably yes.