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

Held on Thursday, December 26, 2013
Town Hall – Joseph Harvey Hearing Room
WINTHROP, MA 02152

Chairman Brian Beattie called the public meeting of the Board of Appeals to order at approximately 7:00 p.m. In attendance at the hearing were the following Board Members: Fred Gutierrez, Michael Power and Joanne M. DeMato, BOA Clerk. Absent: Darren Baird, Irene Dwyer, and Thomas Chiudina to other commitments.

The following matter was 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.

	Case No.	Applicant	Address	Type of Appeal	Voting Members
1.	#018-2013	Joan Roth	100 Sargent St	Special Permit – 17.49 Bed & Breakfast	BB/FG/MP
2.	#091-2013	Sticky Molasses, LLC	47 A Woodside Ave.	Special Permit 17.12 Table of Use Regulations	
3.	Approval of meeting minutes				

#019-2013 - Sticky Molasses, 47A Woodside Ave.

In Attendance: Kate Economides, Atty. Joseph Vecchio

SITTING: BB/FG/MP

BB: Come up and explain what you want to do.

JV: I represent Sticky Molasses, Kate Economides and Chris Thompson as managers have applied for a transfer of a Special Permit. Back in 2010 the BOA granted to BBQ Twins the current owner of 47A Woodside Ave. a Special Permit so they could operate a BBQ restaurant. My clients Sticky Molasses has entered into a lease with BBQ Twins they've been renting the building since the SP was granted back in 2010. My clients are going to be purchasing the building and so they wanted to request that the BBQ Twins be allowed to transfer the permit. The conditions on the SP subject to the permit be transferred it would have to be brought before the Board again so that's why we are here.

BB: Is there anybody that's opposed to this? Hearing none. Is there anybody that's in favor of this?

Chris Thompson, 168 Ashmont St, Dorchester: It sounds like a great idea to me.

BB: Fine, thank you. Anybody else? Hearing none are there any questions from the Board?

MP: There are no structural changes to the building?

JV: No, as of right now there are no structural changes to the building.

MP: Nor to the restaurant itself or the kitchen?

JV: No structural changes as of right now.

FG: I know there was originally a special permit and don't see anything, can you tell me a little how the business operates? What you guys do and how this permit helps you?

KE: We are right in downtown and we now a BBQ shop that does catering, currently we are opened 6 days a week and closed on Mondays. We serve all non-alcoholic beverages, we also done a lot for the town trying to revitalize the center.

JV: It's a combination sit down takeout and there is also the events catering that they do for weddings and things of that nature. They've been in existence for 3 years and there haven't been any issues. They are the operators of the restaurant they just do not own the building and the permit were issued to the owners of the building.

FG: While we're shuffling our papers a little bit maybe you can clarify but what I understand you're looking to transfer a SP that already exists were trying to see how that was originally wrote out and what the SP was because we have to make a ruling.

MP: We are trying to find out why it's non-conforming.

JV: It was the center business district but you need to have a special permit to operate in that particular zone so that's why.

MP: You need a SP to run a restaurant.

MOTION: (MICHAEL POWER) - To grant a new Special Permit to Sticky Molasses, LLC d/b/a/ Blackstrap BBQ, for the purposes of operating a restaurant at 47A Woodside Avenue, Winthrop.

SECOND (FRED GUTIERREZ)

VOTED: ALL IN FAVOR

MP: With the same conditions and restrictions as the last.

#018-2013, Joan Roth, 100 Sargent St.

In Attendance: Joan Roth, Atty. William DiMento

Sitting: BB/FG/MP

WD: I'm here this evening representing Joan Roth who is here the evening and we are petitioning for a permit to run a B & B under the bylaw called B & B that was passed in 2011. We have been here before in November of 2011 and were presently in appeal of that denial pending Land Court in Boston. We are here this evening because of the change that was presented in 2011. One of the reasons of the denial of the permit and stated in the condition was the parking situation and Ms. Roth has added a parking area that you can see in the plan that was submitted on the new site plan an new plot plan that we're submitting to the Board. It's a plan prepared by Hancock Surveyor Associates dated July 14, 2013 showing the additional bituminous driveway off of Johnson Ave. that was applied for a permit and approved by the DPW and the parking area was installed. There is one member that was not sitting in November 2011 when this case was presented initially I will not bore the other 2 members with a long recital because I think you know the situation pretty well but this B & B law seemed to be passed specifically for this particular house because its a perfect example of where a B & B should be allowed. It's on a parcel of land 11, 326 sq. ft in the "RA" zoning district that's been used a single family dwelling Colonial structure built in Approximately 1910 with a gross floor are of 9,052 sq. ft with a living area of 5278 sq. ft, the home has 7 bedrooms 5 bathrooms and a full basement all utilities are available and there's even an in-door swimming pool presently in the house. The first words in the bylaw's purposes clause this is to provide for a more economic use to under utilized residences and to preserve larger historically significant residences by allowing an appropriate accessory use compatible with the residential character of the neighborhood. It's to support tourism without unduly changes the residential character evidentially the outside doesn't change at all and to discourage the current illegal and possible unsanitary operation is of unlicensed boarding homes or rooming houses by providing clear standards of operations of B & B establishments as defined therein. This house has a history of use by Joan Roth allowing airline people that she formerly worked with to stay with her and share some expenses not summer rental or apartments or anything like that, we have identified approximately 14 other homes from Johnson Ave. to Cottage Park Rd. to Tileston Rd. and several in the Highlands that are currently advertised on the Internet for a B&B Operations. And there's only to my knowledge there is only one approved for 2 Terrace Ave. to the Morris family which was approved in 2011 and renewed this past fall for 3 bedrooms and they share a driveway which they park 5 vehicles. This particular has 2 driveways and parking for at least 8 vehicles on the plan. This house is a big house and they need to get a better economic use out of that. With all of the need of drawing tourism Joan Roth has an opportunity to have a perfect B & B operations. She know how to do it and she has read the rules and

regulations that are in the bylaws very carefully and is aware of all of the pitfalls that might confront someone running such an operation. It's a beautiful home and area compared to the heavily traveled Shirley St. across from the Yacht Club this application we believe should be something that the Board should seriously consider. We see no negative aspects of it, it meets all the criteria of 17.49.10, it's old, it's beautiful, and it's underutilized, and could have a better economic use. This is not a variance, its a SP and a SP is allowed when you meet the criteria, it is something that I have been studying now for 2 years, we got very close to making compromises to numbers of rooms, operating, sunset clause, the bylaw says this is a permit that says for 2 years. My client says give us 1 year and see how we do, that is an opportunity of something she would still do. The 4 bedrooms is something that she really needs which would means that if this Board gave her the opportunity to gain some economic she would adjust that and that is livable and something that she could survive with. The plans meet all the standards that are required by the Board and I have a listing of all the illegal listing on the Internet and I would be happy to provide them to show how many are all over the town presently. Joan Roth does not operate anything and is seeking to legalize a B & B operation at the location, I haven't been able yet to understand what has been told was the entry of 2 houseboats in the community at the Atlantis Marina and I don't know if they fall under the B & B law but if not I'm told that they are operating without any licenses or permits what so ever with no recrimination what so ever. We are not here to put anyone else out of business we are here to try to meet the standards of the zoning bylaws regarding a B & B. Joan is here if there any questions if any member of the board or any member of the public has she would be happy to address them. It does meet all of the criteria and all of the standards and I don't know what else to say, if you have any questions we would be happy to address them.

BB: Ok, is there anybody in favor of this?

Lynn Upton, 63 Harbor View Ave. - I am here on Joan's behalf and I have worked with her for over 20 years and she is one of the hardest working people that I know and I just wanted to come and I live up the street from Terrace Ave and its a good addition to our neighborhood.

Rosemary Mahoney, 53 Pleasant Park Rd. - I've know Joan for about 10 years we worked in the same real estate company and as real estate professional Joan and I both realize that one of the whist makes a community attractive to a potential buyer is amenities, recreational, restaurants, good schools and last but not least varied and welcoming businesses. Joan is a kind and generous thoughtful and professional business woman and her dream to open a B &B in her home which is a wonderfully inviting and very unique home can only be a benefit to this town and introducing Winthrop to travelers and vacationers and Winthrop people who would visit other businesses and spend their money. She should be given the same opportunity that Maggie Morris was and has a successful B & B in town and I wholeheartedly support her attempt at this effort.

BB: Thank you, anyone else?

Larry Walsh, 815 Shirley St. - I use to work for Joan and what you said about B &B ,

I see the people on Terrace Ave., I think the only drag to having these people in your neighborhood is that they go around with cameras. I really don't see the negative kind of people you would have in a boarding house. With the transcript article that came out, it said the town wants B&B's and I said to Joan that she was the person to apply for this.

BB: Thank you anybody else?

Cindy Dell'Isola, I am here to support Joan and I've known Joan for over 25 years and she is hardworking and I've visited her home on numerous occasions and sometimes weekly if not daily and I couldn't understand why she couldn't be afforded the opportunity as well. It has been a pleasure at her home and she has kept everything up to speed and for visitors, I agree with Rosemary about the comments about the city. I too am a realtor and all of these things this should make for better attractions for a welcoming community.

BB: OK, thank you, is there anybody else? OK, we'll close that section of it. Is there anybody against this? Name and address please?

David Reynolds, 104 Johnson Ave. - I live directly across the street on Johnson Ave. Her attorney has mentioned rules and regulations, since I've lived on Johnson Ave. in 2005, it's been an illegal boarding house and it's been an illegal B&B. She's been operating an illegal B&B all summer, advertised on the Internet and I'm sure that's been listed in his notes. There have been visitors in and out. I believe that the driveway that was installed was not in compliance as to what was proposed and it's just not the right neighborhood and I would also ask that we postpone this the day after Christmas we were here for this at the November meeting and all the neighbors were opposed to this. It's just not fair at Christmas time to have a meeting.

BB: Thank you, anyone else?

Kristen Reynolds, 104 Johnson Ave. - I have teenage children and my next-door neighbor who was not able to come also has teen-age children she and I are concerned about transient people coming and going. I sat on my porch all summer long and watched people coming all hours of the day and night to the newly made driveway on Johnson Ave. is right across the street from my house as I am concerned about that. And in terms of following the rules, in the 8 years that I've lived on Johnson Ave, never once have I seen the corner shoveled even in the most recent storm last week the driveway and the sidewalk was never shoveled. So in terms of upkeep and I don't know the inside of the house but know the outside and they're not following the law.

BB: OK, thank you, anybody else?

Richard Dimes, 105 Johnson Ave. - I am their next-door neighbor on Johnson Ave. her backyard backs up to mine. I've owned my house and been there for 53 years, and for 41 years it was a lovely single family home in a very highly residential area and all of a sudden after Ms. Roth bought the home I immediately started to see change and for the last 10-12 years this woman has been operating an illegal boarding house with sometimes over 20 people living in it and has completely ignored the town's zoning rules and regulations. Pay no attention to her and her last attempt was putting in an illegal driveway and again, paid no attention to her and when it was pointed out to her that she was doing it wrong she just ignored it. The fact here is that this neighborhood

is a family oriented neighborhood, it is made up of families that have children and it's a very quiet neighborhood, this type of operation in this neighborhood is not what should be in this type of neighborhood.

Steve Buonopane, 97 Johnson Ave.- I live 3 houses down, and I'm hearing some of the things about different B&B and I like the idea of them, as far as the house, I've never been in the house but based on the description, it sounds like its conducive to a B&B but the neighborhood is not conducive, I've 3 young children 5,7, & 9 I can see into the yard and personally I feel very uncomfortable, I like to know my neighbors, we bought its house on 2009, we bought because we love this neighborhood and this is where we wanted to raise our children. The idea of bringing in a B&B with people we don't know very uncomfortable. I think that any young family would want to know who their neighbors are.

BB: Thank you anybody else?

Peter Gill, 125 Plummer Ave.- Disclosure I am the Town Council President, but speaking as a resident, I agree with the neighbor and feel that a B&B is a great thing, and very positive to our community, however in that particular neighborhood is not.

BB: Thank you, anybody else? I will close that part of the meeting. One thing I would like to do now is have John Barrett, the Building Inspector come up and explain the driveway that was put in just so everybody is clear about it and we don't have no ands, or buts about it. Thank you John.

John Barrett, Building Commissioner - I will do my best to clarify it. On Sept. 4, 2012, Joan Roth submitted a plan to the Building Dept. with documentation as to a drawing for a prosper driveway. The drawing that she submitted was basically a 9 ft. driveway with no length attached to it whatsoever. So at the time, Jim Soper was the BC and he went out to her location and reviewed the backyard and that was I'll read as follows: " I reviewed your request for zoning approval for off street parking located at the above mentioned property, as part of my review I conducted a site visit to determine that the required area off-street parking space is 9x19' as well as required a 2 ft. setback exists and is indicated in the attached plan. I can conclude that your proposed location for off street parking complies with the local zoning laws." So then on 8/9/2012, which is prior, she had submitted an application along with R. Sasso & Son contracting to the DPW for a permit to install the driveway. They had applied for a driveway for 8x20 ft. and were granted a permit for 9x19' I believe. After several calls from neighbors that the driveway was being installed I conducted a site visit and determined that she had gone well behind the permit that she had received. So I contacted Joan and set up a site visit with myself, Bob Sasso, Joan and Mr. Dimes. And I explained to Joan in my opinion that she had gone beyond the scope of work and the 9x19' would allow for 2 cars 1 stacked behind the other which is normal installation of the driveway, that's what she applied for and she went beyond that, not only that they had neglected to install the 2 foot buffer zone of Mr. Dimes fence is at the meeting she had agreed to cut the buffer zone in and pull back the additional asphalt which has never took place so in the mean time, we dealt with Mr. Sasso all the time, I had to question him a few times as to why he had not rectified the problem and he said that he wouldn't pull back the asphalt until Joan had paid him additional monies, as she had

instructed him to cut the additional asphalt to the driveway area which goes from Mr. Dimes fence all the way to the house and back no grass strips that are explained on her plans that were submitted by her. As far as I'm concerned the plan for the driveway was not followed as submitted and I don't believe it should be utilized until the time that it is pulled back and brought back to the 9x19 design that was submitted.

BB: Just so everybody is clear on this, on the driveway for parking actually starts at the front of the house out?

JB: I tried to clarify that today and it depends what you're reading. It's from the side and rear yard lines and the rear yards are a minimum of 3 ft. the such said setback will be 5 ft. where 2 setback areas are included and a minimum install depth. It's set so they can't interfere with the sidewalk.

WD: Can I ask you what you're reading from?

JB: Winthrop Zoning.

WD: What section?

JB: I'm in 17.20.40. - 50. And it give you a general rule of thumb is from the foundation line on back now she might not have exactly 19 ft. but she might have an additional 9-10 ft. from the foundation to the street, so as far as going down there with a tape and measuring it neither there DPW or myself do, we try to make a little bit of common sense and make it work. Now if it's going protrude too close to the sidewalk and interfering with the public way we don't allow it, we don't allow any parking in view, in other words you cannot parking front of the house. Mr. Soper's determination as to Joan Roth's creating a driveway on the side yard is not my determination, I believe that's the rear yard, Mr. Soper considered to the side yard.

BB: So you're the BI now?

JB: Yes.

BB: One question here on the Dimes side of the driveway? Is that supposed to be a 2 ft. buffer or a 3 ft. one on that side?

JB: What they're saying is when you run the driveway in, you end the driveway 3 ft. prior to the yard. But she requires a 2 ft. buffer to Mr. Dime's property and her permit is 9 ft. she's got about 18 ft. of asphalt wide by 20 ft deep her permit is 9x19 so you can park 2 cars not 4 not 6 - 2. We have ample photos of 4-5 cars parked in that driveway.

MP: So the width right now is 18 ft?

JB: 17-18 somewhere around there don't quote me because I didn't measure it.

BB: Is that with the 2 ft. buffer or without?

JB: Without.

BB: So legally you probably have 16 or 17'.

JB: Correct, her permit is 2 ft. buffer 9x19 ft.

MP: Does any of the asphalt go in front of the building itself?

JB: Yes, it goes right to the public way.

MP: In front of the house, if you park in part of that driveway facing the building?

JB: No she's in the rear yard.

MP: OK.

JB: Which the previous BI had considered the side yard, I don't see it like that but they

issued the permit so I stand behind it.

BB: OK, any questions for the BI?

FG: So the permit surveyor is actually it's closest?

JB: I know in the ordinance she requires sufficient parking use, one car per bedroom, so you're telling whatever is required for the principle building and one per bedroom, so if she's requesting 4 bedrooms she's talking 4 plus the principle use was when the time was when the house was permitted 1 or 2 per unit.

BB: Thank you very much for clarifying that for us.

WD: Question for the BI Chapter 40A section 7 makes you the zoning enforcement agent did you ever write any letters under this section any enforcement letters?

JB: No there's an enforcement letter from 2008, there's a cease and desist.

WD: No answer the question relative.

JB: I just did answer.

WD: It has nothing to do with the driveway.

JB: You just asked me if there were any enforcement letters. I said yes there is from 2008.

WD: Did you write any letters?

JB: No I did not, I gave Joan Roth the opportunity to make the driveway good. I'm not concerned about the house; I'm concerned about the driveway,

WD: Have you seen this plan?

JB: Yes, I have.

WD: And where does that say 9x19 approved?

JB: We have the plan that was submitted by Joan Roth.

WD: Where does it say it was approved?

JB: Right here, well no it doesn't, here's her permit application right here.

WD: Here's the plan approved by the Building Dept. isn't that the BI's signature

JB: Plan approved.

WD: Where does the plan show?

JB: That's Mr. Soper's writing, you can interpret anyway you want, I'm telling you that how I interpret it.

WD: You're sure that's Mr. Soper's handwriting?

JB: That's Mr. Soper's writing and I would put that in front of an expert.

WD: I'm just asking. We would make the driveway wherever it is to make that a legal driveway.

JB: Well cut that back to 9x19 and I go away. She applied for a driveway 9x19.

WD: Mr. Sasso went to Mr. Soper and he had worked on it.

JB: Mr. Sasso did not go to Mr. Soper because Mr. Soper was not here. Mr. Soper was not here, he was in Everett, and I was here.

WD: So he went to you? Well, who approved this?

JB: Steve Calla and Soper and then she waited till I was here 3-4 months before she put the driveway in and I was down there right after she put it, she agreed to pull that driveway back but never pulled it back.

WD: If that is the case and the law I don't know where you're getting the rear yard and side yard thing because that's generally clear in the bylaw.

JB: Read the ordinance it's right in there.

WD: As to where it's a rear or side yard? I think it is in there.

JB: OK, here we go, page 210, 'from the side and rear yard lot line is the rear yard minimum of 3 ft. set back shall be 5 ft. where 2 ft. of setback area should be included minimum installed be provided'.

WD: I'm not debating the side yard of Mr., Dime's property I think that is a correct interpretation.

JB: Correct, 2 ft. and then 9 ft. from there. She was allowed 2 cars 9x19' that was issued to her and I'm not disputing it. I'm backing what the previous BI and Mr. Calla stated is 9x19'. She applied for a 9x19', here's her application right here, Soper didn't fill it out, Calla didn't fill it out, they filled it out, she wanted an 8x20' that's her application to the DPW. With your permission Ms. Roth would like to address the court relative to that issue.

JR: This piece of paper that Mr. Soper signed says 9x19' in my handwriting, I called Mr. Soper one day and I said to him because I wasn't sure that I had enough ground to created even one parking space so I called Mr. Soper and said what is a legal parking space, he said a legal space is 9x19', you have to have at least 9x19' to build a driveway so I took this piece of paper because this was the old plot plan that I had done in 2003 I took this unfortunately I didn't erase this I should have, I went down to Mr. Soper's I drew out here you can see the drawing is what he approved. So this 9x19', Mr. Dimes comes over to me screaming, the 9x19' is a legal parking space, I called Mr. Soper when this came up and I've talked to him a couple of times about it and he was suppose to call John because he approved this area that I have blocked out here that what was approved and he said that I could carry it to my entire back as far if I want to do but this as you see it drawn put is what he approved. This 9x19' was mine scratching when I was talking to him.

WD: If she wanted to pave her whole back yard would she need a permit to do that?

JB: There's a greenery ordinance in there, I didn't want to quote them because I have to read them then form an opinion but this ordinance is requiring so much greenery on every property. I know that you go by some place that you will see entire yards paved I don't know how they got like that.

WD: Winthrop has a green provision in the bylaws?

JB: Somewhere.

WD: Really the point being that any permit would be subject to the driveway meeting the regulations I don't think that's met.

BB: Did you agree to rip this out and straightened it out - with a contractor?

JR: I told John when he came over that if I needed to do it I would, however, I said to Mr. Barrett I would take out the 2 ft. the problem is because the ground slopes when we dug out and exposed all the poles holding up Mr. Dime's fence and I install the wall there to protect that fence if those blocks are removed and a cut back down that fence will not be stable and that's the reason that I haven't done it because I didn't want to disturb that fence. If you want me to break out that wall and break out the concrete I will do it but it will completely expose all the way to the tip of the pole.

BB: It was suppose to be 9x19' or 8x20'?

JB: 9x19'.

BB: So lets just say that it was supposed to be 9x19'.

WD: But she's saying that it wasn't that that is that her writing the 9x19' and what Mr. Soper approved is on the plan 20x16'. That is what he approved, I haven't heard anything that says you couldn't have 20x16', if this is not Jim Soper's writing this is Joan's?

JB: That's my opinion that that is Jim Soper's writing, we're not handwriting experts.

WD: I'll accept Jim Soper's word; he's not going to lie.

JB: I didn't say that he would lie, if you look at those 2 they're identical and what I'm saying she applied for a 8x20' driveway this is her application, not mine, not Jim Soper's, not Mr. Dimes, it's hers.

BB: And 8x20' is what she applied for.

WD: It doesn't really matter we have to do what ever the law is.

BB: Mr. DiMento is there anything else?

WD: There is one thing and this Board knows and as most people in this room knows there weren't any people in and out of there this summer because there's been an injunction since July of this summer and I'm sure that if she had violated it the BI would have been right on her to do it because it had been issued by the Land Court. There hasn't been and she has followed the law very closely and there's not been anyone there all summer long so for those people who said that they are mistaken.

MP: I have a procedural question it sounds to me that there are only changes to the parking is the driveway, is that the whole basis for this application?

WD: Yes it is.

MP: And this is currently still in litigation court?

WD: Yes it is.

MP: From the Board perspective this is a Genova review?

WD: That is correct, the Court had remanded this last summer and there was so much feedback and at that time the town sought an injunction that Ms. Roth was sent back by the court to look at the additional parking that was provided. I did not know there was any problem with an interpretation of the rear yard side yard, the 2 ft. thing I did know but this was sent back by the judge and then because of the futility of it relative to the enforcement issue by the town she did not proceed and it went back to the court and that's why this application was submitted so the Board before this goes to court saw the change in condition. There's a lot of functional approval in this case and it's rather obvious. So that's why we are here tonight, we are not naive but hope that the Board will view the parking as the thing that relieved the stress on the issue relative to whether its appropriate to the neighborhood. This particular neighborhood is not exempted by the bylaw, which is an allowed use not a variance, and this neighborhood is included within the special permit for the criteria. What we are saying is that we meet every single criteria and comparing this to the one other B&B in town for the parking it reaches the absurd stage for tandem parking space for Terrace Ave., and my client supports 100% as an example as something that does work. I have a brother in the neighborhood that does agree that it works even though the parking on that lot is tight it does work people do get to see the sunsets. This neighborhood is also subject

to that bylaw. They want to take the Johnson Ave. and Sargent St. out of the bylaw and up to the town council and the zoning board.

MP: Seeing that we are looking at this with fresh eyes, understanding that you're not currently doing any business can you tell me about your proposed check in times, house rules, which guests may come and go?

JR: One question at a time?

MP: What is your check in?

JR: Check in 9:00 am sorry that's check out; check in would be anywhere up to 8:00 pm.

MP: Are guests welcome to come & go as they please? Or is there some sort of a mandatory curfew?

JR: No they are free to come & go as they please. These are adult travelers they're not kids.

MP: Do you have any restrictions on whom your travelers would be?

JR: I wouldn't have any restrictions but certainly I verify everyone I know who they are and have communications with them constantly before and what they are there and what their plans for. If I got a hint that there would be children or teenagers of course that would be out of the question.

MP: You didn't submit in the plan anything specific anything where the beds would be located, how many beds, what size?

JR: 4 bedrooms on the second floor, there is a master bedroom with a private bath, and then there's 3 other bedrooms, that'll share a bath on the 2nd flr.

MP: Do they have a queen bed, a king bed?

JR: In the master suite there is a queen and the room next to that one is a twin.

MP: One or two?

JR: 2 twins and the corner room there is a king and then the small room there is a full.

MP: And on the 3rd floor?

JR: The 3rd floor is my daughter, grandson, and her husband.

MP: So those are family rooms?

JR: Yes.

MP: And there's no living space on the 1st floor?

JR: No living space?

MP: No bedrooms?

JR: Yes there is one bedroom in the back.

MP: And is there a fire escape, and emergency plan, what do we have as far as an emergency egress?

JR: There is an exit onto a deck on the 2nd floor; there is deck all around the 2nd floor.

MP: So you would go onto a roof?

JR: Yes.

WD: We believe there are no building code violations this building has been gone over with a fine toothcomb by various depts. in this town.

MP: I'm not challenging that I'm just trying to understand. So you go out onto a roof?

JR: A flat roof.

MP: And what would be the drop off of that roof?

JR: One floor.

MP: Can you tell me about the pool?

JR: What would you like to know?

WD: A previous owner built the pool.

MP: It's enclosed?

JR: Yes.

MP: Who's it to be used by? The guests?

JR: The guests would be able to use it.

MP: Do you have safety precautions there like lifeguards?

JR: No but I have signs that say no children alone, I have plenty of floating gear all over the place. I have friends that come and use it.

BB: I have some questions; you were on the Internet, you advertised at the airport?

JR: 17 years ago, yes. That was 16 years ago.

BB: Well, this came up 6/16/2013 - room type this is yours right?

JR: Right.

BB: June of 2013, so you just said that you haven't done anything in 17 years. This is still this year. You say here that you don't charge? You don't charge for this or they pay? It looks here that you've got weekly prices \$350 and monthly prices \$1350.

JR: Yes I was charging until I got the cease and desist order, which I abided by.

BB: And when did that cease & desist order go in?

WD: July.

BB: I go by there a lot probably 4-5 times a week and I see a lot of cars there. All different times. Has anybody else seen cars there?

KR: Over the summer, all summer long.

BB: The parking for your vehicles now it looks like you've got parking for 3 cars. 2 in the other driveway and 1 on the other driveway.

WD: What about tandem?

BB: Tandem you can't really - tandem is a condition, ok? This piece of property still goes back to the fire dept. at one time there were 18 girls in there?

WD: 18 girls?

BB: Stewardesses that's what it says. It goes back to calls from the police dept. and the fire dept.

WD: Is there a written report? This is the first time that I am hearing this about 18 girls?

BB: Yes it's the fire dept. from 2011. When they went there this particular time she wasn't even therein she went to a trip to France. (Reading report) 'A layover rooming house for flight attendants and asked to cease & desist'.

WD: Where are the 18 girls in there?

BB: That was in a letter that was in here. They were in there when the fire dept. came.

WD: Can we get copies of that?

BB: Cataldo ambulance is in there; you've been running this since 1997. Have taxes ever been paid on the income? Has the IRS ever been involved? Ever pay taxes to the town? Nothing's ever been done.

WD: They pay taxes to the town that's for sure.

BB: Just for the house?

WD: Yes. I don't know.

BB: There is a check in the file that you took someone to court. You took a girl to court over something or another? I don't know how many years ago that was.

WD: It was a claim by a lady that was there claimed she was a tenant, and the judge threw it out and found in favor of Ms. Roth saying that she was not a tenant, and there was no landlord-tenant relationship.

BB: She was a guest but she paid you by check?

WD: The court threw it out I have a copy of that - if you ever want to see it. I'm still interested in the 18 girls.

BB: There was a file in here about stewardesses; it's in here somewhere I'll find it eventually.

MP: I'll go back to the parking, as this is new, there how many permanent residents in the house?

JR: Me, myself, my daughter, her husband and my grandson.

MP: 4 so there 3 adult and 1 child?

JR: Correct.

MP: How many vehicles do the 3 of you have?

JR: We have 2.

MP: 2 vehicles? And which driveway do you parking those vehicles in?

WD: Right not other one on Sargent St.

MP: Do you have a resident parking permits on the cars, do you ever park on the street?

JR: We can but we don't.

MP: You don't have a resident parking on the car?

JR: Yes we do.

MP: But generally you do not park on the street? OK, and you have 4 bedrooms that you planned on having for hire? And where do you have parking for these four residents? Considering that you have just established that you have now 6 vehicles that you'll park in your driveway?

JR: 2 spots on the Sargent St. driveway and 2 spots on the Johnson Ave. side.

MP: Ok that's 4 but you have 6 where will the other 2 vehicles go?

JR: One is parked in the garage because we don't use it and it's a 2-car garage.

MP: I'm just asking.

WD: I understand it, there is a 2-car garage and there's ample parking.

MP: So in order for your guests to park in the driveway they would have to stack one in front of the other is that correct?

JR: No there are 2 at the end of 1 driveway and you can get 2 at the end of the other driveway, I'm retired.

MP: Well you run to run a business so you're not retired.

JR: My daughter has her own boutique in town which is 2 blocks away so she walks and my son-in-law works next to Bolster's he does bring cars in and out because he's a mechanic but that neither of theses are issues as far as parking.

MP: So if your son-in-law works on the other side of town and needs his car but you have 2 guests that come in late and are blocking the car what would happen?

JR: I guess they would have to move the car or we would move it for them.

MP: OK, are you keeping the keys?

JR: Normally everybody on my house leaves keys.

MP: No for the guests?

JR: If necessary but normally it's not necessary.

MP: How long do you expect these guests to stay?

JR: The maximum is 14 days.

WD: Under the by-law, the worst-case scenario looking at the parking plan for 2 Terrace Ave. and you look at the parking plan for this that's what we ask you to do and be objective.

BB: Terrace Ave. is not in front of us today.

WD: Yes it is it's a B & B.

BB: But they're not here its 100 Sargent St. today.

WD: It's here as a comparison, which is the only other B& B in town which this Board has granted as to prior practices. We know what's sticking in everyone's craw in town is the fact that these stewardess were there - 18 of them, at one time according to the Fire or the police dept., and the fact that she's had these guests, there is no question that she did, no one is arguing the fact, we're saying that this is an epidemic in the town, and the BI hasn't done a thing about yet Joan Roth is being crucified for it. What we're here to do if parking is the issue we will come back with more parking for this site if that the only issue, we'll make the parking comply with what the BI wants as to his interpretation of the law, that's the real issue but the underlying issue of its prior history is what we have to deal with sub-rosa and its a very difficult thing to do. She is one of the 14 people who have been operating one of these so called crash pads for all these years and saying good - they passed a law and I can run a legal B& B on this house which meets the criteria if the bylaws and if you really want to look at the purposes of the bylaw is there a better house for these purpose in their town for a B&B just look at the purposes, that's all we can do, but there are 14 other on the Internet which we based in court this summer and Mr. Beattie is absolutely right what he read, no argument, that is the history of this house what we're trying to do is take it off that table and make it a legal B&B so she can get the economic use for tourism comes in to the town and its an underutilized property. That's all we are trying to do, I'm trying to be as honest and real with you as I can I brought that in November 2011 that we were there with the compromises that were made to give her at least a year to try. That's what it comes down to it's a sense of fairness and this whole parking stuff by the BI.

FG: It would if it was corrected.

BB: You've had plenty of time to correct it and it hasn't been done. And that's the way it seems.

WD: I'm not disagreeing with you on that either.

FG: You brought this to the Board as a parking issue, I appreciate that but in terms of clarity and in terms of parking, it's not clear to me I would appreciate it if that was resolved then we could look at it clearly and what that would mean was to work this out

with for neighbor and work this out with the Building Dept. and come back so there isn't this confusion going on. So us on the Board can look at this and say you have this amount of space, we've looked at the house before and we understand, I have my own thoughts and concerns on that and I am sure the Board has similar or different on that but we need clarity so the driveway should be sorted out whatever that takes and when its presented back it should have the cars drawn into where they are really going to park and what there addressed to and no confusion about it not us asking how many are here and how many are there drawing on the plan to scale who's who and I would prefer a document that shows the type of beds on the guest rooms because that we a concern of mine when I ruled on the case and I just want clarity on it, the drawings have gotten better since we've looked at the case and I appreciate that but I would appreciate facts on the case.

BB: Going back to the 18 there was a Robert Porter and his comments he had asked a girl and she guesstimated that 'there was 17 people' and the next week he stopped at the stop sign and he asked the girl 'How many this week?' and she said 'There is only 14'.

WD: That's a police officer?

BB: A neighbor.

WD: So it wasn't a police officer or the fire dept.?

BB: No I just clarified it for you, ok? Before you make a to do about that.

WD: Thank you.

FG: Did you have something to comment Mr. Barrett about that?

JB: Relative to the parking, I agree with the statement, I can't decipher where they are going to park the cars nor can I see the dimensions of the driveway, they're lacking. I don't know if this plan by instrument or not, generally an instrument survey is stated as much with the plan but as far as I am concerned I couldn't accept this as in instrument survey so you need the dimensions plus I just went through the file and It's a legal one family so I'm just going to assume that there are two cars required for the principle use so there would be one car for the bedrooms so they have to show 6 cars. I'm going to assume when the house was built the zoning ordinance roughly 2 (spaces).

WD: There was no zoning ordinance in 1910.

JB: There might not have been.

WD: There wasn't!

JB: So say there was 2 and they required 1 per bedroom which should be 6 cars and if in fact there is stacking the car in the garage counts as a car, in the driveway 1 and 1 in the garage that's 2 stacked and you are only allowed to stack 2 cars so if in fact the driveway on the left side is wide enough it would cause the 4 cars and 2 on the other driveway which would give her the 6 cars needed but you can't tell because you don't have the dimensions on the plan.

BB: And if you do the dimensions on the plan we want the dimensions on Johnson Ave. on what it's suppose to be. Before you were going to have it straightened out, if it's 8x20' or 9x19' what the dimensions are suppose to be on the Dimes' side.

WD: I don't know what it's supposed to be because I can't figure out.

BB: It's either 9x19' or 8x20' the only thing you can the your pick. 9x19' or 8x20' is

what they both say.

WD: This says 26 ft.

BB: That might be the length of it. The width is either 8' or 9'. You need 9 ft. to have a driveway anyway.

MP: Far down on my lists of concerns but I do believe that the pool is non-conforming to the ordinance in town you're not allowed to have an enclosed private pool so I'd like you come back with as how it would be a public pool.

WD: What so you mean public pool?

MP: You're allowed to have a public pool but not an enclosed private pool.

JB: I tried to do as much research as could on that, I was told and it's only hearsay so I really shouldn't be speaking about it, at on time the person who owned this before was granted a variance to enclosed that pool.

DR: Eric Jackson owned the house, he was a Vietnam Veteran and was injured in a helicopter accident so when he bought the house after 2 years he had put in a pool and then he decided that he wanted to get therapy and would be better if the pool was enclosed. He went before the BOA and the covering was approved by the BOA a couple of years later the town passes a rule no more enclosed pools.

BB: So it's grandfathered in.

WD: We couldn't find the files at the Building Dept. when Eric Jackson did it but that was very helpful to find out how it was done.

JR: It was done in 1985.

JB: I have a copy of the variance it was issued on Sept. 20, 1984; it was in the building file. I have a copy of the application to enclose the pool on Aug 14, 1984 so it was closed in legally.

MP: So that's no longer a question.

WD: We'd be happy if the Board would allow us to go back and provide these plans with the driveway with the cars shown on a depicted plan.

MOTION: (FRED GUTIERREZ) - To continue this case to January 9, 2014 at the next meeting, on the basis of clarity in terms of parking, guest bedroom distribution and it would be important to have this as clear as possible upon the next review in terms of clear dimensions by a licensed surveyor to identify and the locations of the cars for the guests, for the residences and an interpretation the bylaw what do you perceive as a legal stacking of cars and with the bedrooms to identify the size and number of beds.

SECOND: (MICHAEL POWER)

VOTED: ALL IN FAVOR

WD: We appreciate the opportunity for this.

MOTION: (FRED GUTIERREZ) - To accept the minutes of the December 5, 2013 meeting.

SECOND: (MICHAEL POWER)


VOTED: ALL IN FAVOR

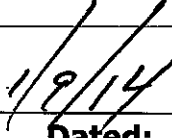
MOTION: (MICHAEL POWER)- To adjourn the meeting.

SECOND: (FRED GUTIERREZ)

VOTED: ALL IN FAVOR

Meeting: adjourned at 8:25 p.m.


Brian Beattie, Chairman


Dated:

Respectfully submitted by: Joanne M. DeMato, Secretary