

**CITY OF TAUNTON
ZONING BOARD OF APPEALS
September 15, 2016 at 6:00 PM
(Meeting held at Maxham School, 141 Oak St., Taunton, Ma)**

Members Present: Chairman Ackerman, Amaral, Berube, Staples Correira, Vieira, and Moniz.

Meeting called to order at 6:06 PM

Wayne made motion to accept July 21, 2016 minutes, seconded by Joe. All in favor.

Chairman Ackerman explained the process of which the ZBA conducts its meetings. They listen to the petitioner/Attorney, then opposition or in favor and then back to the petitioner. They do not go back and forth.

Case # 3288 – Oaklawn Avenue – Artesani – Requesting 6-month extension
Joe made motion to grant 6-month extension, seconded by Colby. All in favor.

Cont'd. Case # 3328 Big Red Properties LLC Duffy Dr. (Prop. I.D. 68-41-0)
A Variance from Section 6.3 of the Zoning Ordinance to allow the construction of a single family dwelling on a lot having 13,648 sq. ft. (instead of 15,000 sq. ft.) with 8,498 sq. ft. of upland (instead of 11,250 sq. ft.) and a 10 foot front setback for stairs (instead of 25 feet)
Letter from Engineer requesting to withdraw without prejudice.
Joe made motion to allow petition to be withdrawn without prejudice, seconded by Steve. All in favor.

Cont'd. Case # 3332 Jones 519 Weir St.
A Variance from Section 440 Attachment 2. – Intensity of Use Regulations of the Zoning Ordinance to allow a 1,490 square foot Tattoo Studio & Art Gallery.
Request to continue to October meeting and waiving time frame of which to act on this proposal.
Joe made motion to continue this until October meeting, seconded by Colby. All in favor.

Case #3333 Combined Realty LLC 66 Main St.
For: A Variance from section 440 -501 E - Attachment #1 of the Zoning Ordinance to allow a mixed used development in a Central Business District (8 residential units on 2nd & 3rd Floor and the existing commercial use on 1st floor)

For the Petitioner: Atty. Thomas Gay, Jr., Gay & Gay, P.C., P. O. Box 988, Taunton, M
Atty. David Gay, Gay & Gay, P.C., P. O. Box 988, Taunton, Ma.

In favor: None

Opposed: Jose Bejarano, 40 Main St., Taunton, Ma.
Heidi & Scott Stipetic, Applause Academy, 21-25 Main St., Taunton,
Ma.

Brian Poilluci, 8 Cedar St., Taunton, Ma.
Atty. Bruce Rich, 23 Trescott St, Taunton, Ma.
Atty. John White, 4 Winthrop St., Taunton, Ma.
Atty. Gayle deMello Madeira, 69 Main St., Taunton, Ma.
Atty. John-Paul Thomas, 3 Dean St., Taunton, Ma.
David DeSantis, One Taunton Green, Taunton, Ma.
Paul Weyant, 30 Main St., Taunton, Ma.
Michael Wedge, 20 Cedar St., Taunton, Ma.
Mark McCauley, 75-77 Main St., Taunton, Ma.
Carol Welch, 63 Main St., Taunton, Ma.
Jerry Ferrara, 6 Cedar St., Taunton, Ma.
Debbie Bloom, 35 Fruit St., Taunton, Ma.

Petition signed by abutters opposed to the existing commercial use
on first floor.

Atty. Tom Gay states they are here tonight for approval of a mixed use development downtown. The City amended the Zoning Ordinance relative to parking downtown. The proposal is for 8 units, three 2-bedroom and one 1-bedroom on 2nd floor and 3rd floor will have three one-bedroom units. There will be limited construction and new parking. Atty. Gay referenced the Zoning Ordinance relative to mixed used buildings and there are many downtown. He stated there are two parking lots downtown within 500 feet. He stated his client has done a wonderful job with Sabbatia Landing Condos on Bay Street. Wayne stated the ordinance specifically says the parking “may” be waived if the granting authority chooses to waive it. He stated the ordinance does not automatically waive it. It has to be a finding by the Board. Joe stated he can put 3 units in now as matter of right and Atty. Gay stated yes he thought so. Atty. Gay would defer to the City Planner in the interpretation of the zoning ordinance. Wayne asked what are upscale apartment and what will be the rates? They are proposing granite countertops and the rents will be \$1,400 for 2 bedroom \$900 for 1 bedroom. Opposed: Jose Bejarano, owner of TuxTown and several properties downtown. He said he totally understands putting money into City. He said 64 Street was vacant for 7 months and then tenant wanted to go on and it was very difficult because of the adjacent use (Methadone clinic) He stated the people who use the clinic are violent. He said he had a student helping him out with his store and he told them to not go down the street during certain times. He submitted petition signed by abutters opposed to the clinic. Mr. Bejarano stated the danger time is 7:00AM . He stated there are buses bring them in from Brockton and Fall River. He understand there is a crisis in our City but he sees nothing good coming from this. George asked if he lived near there? Mr. Bejarano answers no but it’s very busy between 6:00 AM – 10:00 AM. George lives in the area and

has drove by at 7:00 AM and has never seen bus. He has never seen the convenience store open. He stated there are drugs in the neighborhood and they are not from this clinic. Brian Poilluci, 8 Cedar St. stated he's a freelancer for digital marketing. He is closed before 10 Am so he can't comment on those times. He does have an uncomfortable feeling, issues with trash and he cannot have a meeting before 10 AM due to the people waiting outside. He doesn't know if he's going to apply for the rebate program with the City because he might not be staying. There is no way you can find parking so he might not stay at this location. Wayne asked him about his digital marketing business? Mr. Poillucci states he does a lot of his work on-line. But the traffic and parking is terrible. Joe stated they tried to put apartment sin 2 years ago. He stated the petitioner is for the apartments once the methadone clinic is out. Opposed: Heidi Stipetic, Exec. Director of Applause Academy. They produce 16 musicals and have monthly performances and that attracts a large audience. He concerns is the safety when all these people line up outside for the show. She stated apartments are not consistent with what is there now. She stated they did a major renovation to the building and built a state of the Arts theatre. She stated the clinic is a detriment to the downtown. Opposed: Atty. Bruce Rich, 23 Trescott St. stated his concern is the upscale apartments and it's simply not going to happen if the clinic is there. He reminded everyone when the Silver City Galleria Mall opened it left downtown a ghost town. WE need business downtown. He stated there are no provisions for parking. What about snow? He thinks Mr. Melo won't get his return on his investment and it will end up as low income housing. Wayne stated there is zero parking. The lot is full with business patrons. Atty. Rich answers around 4 pm. the Trescott Street Lot is full during the day. Chairman Ackerman the ordinance used to require 2 parking spaces but now it's only one per unit. He too stated it "may" be waived by the granting authority. Atty. John White, 4 Winthrop Street opposed. He said the clinic is allowed as a matter of right under the ordinance. He opposed new ordinance relative to parking. Atty. John-Paul Thomas, 3 Dean St. stated Mr. Melo is a great person. Atty. Thomas said he lives in the neighborhood and putting housing above a methadone clinic won't work. He's aware everyone is entitled to recovery but the crime rate goes up with a clinic is there. He stated a recent 2015 study states putting housing next to this type of clientele is not good. David DeSantis, owns many properties downtown. He has been in business for 27 years and owns 4 properties. He agree Mr. Melo does a great job with this properties but he thinks will have very tough time marketing these units. Opposed: Cathy Doyle, stated her husband David DeSantis has been working tirelessly to improve downtown. He has worked hard to bring a certain character into the City. He has 30 years of experience working downtown. She suggests perhaps having additional security when the clinic is open. Chairman Ackerman has concerns with them utilizing the 2nd & 3rd floor for residential uses with no parking. Wayne asked Cathy if she thought the market will have impact on neighborhood with the existing commercial use. She answers yes she thinks it will have a negative impact. Paul Weyant, 30 Main St. Karate studio stated he doesn't see a huge line at 5:00 AM. Michael Wedge, 20 Cedar St. opposed. He

sees huge lines around 6:00 AM and a lot of cabs. He has reported drug deals to the police. Atty. Gayle deMello-Madeira, 69 Main St., stated the petitioner is proposing to contribute to the City but putting apartments above a methadone clinic is not compatible use. She is sensitive to the addictions problem in the City. She thinks the rates are high and not realistic. She said parking has always been a problem. They have tried significantly to bring business downtown. Opposed : Matos Ivo, 35 Main St., Jerry Ferrera, 6 Cedar St., Mark McCauley, 75-77 Main St., Carol Welch, Roma's Hair , 63 Main St., She stated there is 12 units above the hair salon and they have problems with people urinating, vomiting and rowdy tenants. Atty. David Gay stated the methadone clinic is there and we are not there tonight for that use. There is still life left on the lease. They are proposing mixed use downtown. There are 2 lots within 500 feet away. He stated if the property was used for commercial you would need 3 times the amount of parking. The developer has a good reputation and done wonderful work in the City. He asks the Board to give him the opportunity to spend his money, don't hold him hostage. Wayne stated people testified that because of the circumstance this mixed use will be a problem. Wayne stated the clinic is there and he looks at what impact it has on the neighborhood. Wayne reminded him the parking is subject to this Board per the ordinance. Wayne stated the existing use would be noxious to the multi-family use. It was noted there have be no police reports on the exiting use. Letters from the B..O.H., City Planner, Conservation commission, and abutter Debbie Bloom, 35 Fruit St. opposed. Wayne re-iterated to the Board that under the new ordinance parking "may" be waived. The language is subjective. Mike stated even though he doesn't vote tonight he would be vote no. Wayne stated parking is a big problem and in the court case they thought so too. It's not logical to have families with children waiting for bus. The existing use is toxic to the residential proposal. Joe's concerns are the same as a few years ago. Colby stated he does maintenance on several properties and parking is an issue and this will make it worse.

Wayne made motion that the Board has a right to require parking, Seconded by Steve. All in favor.

Wayne made motion to incorporate the old court case in the decision relative to parking, seconded by Steve. All in favor.

Steven made motion to forward the petition signed by abutter to the Municipal Council and Board of Health making them aware of the abutters concerns. Seconded by Wayne. All in favor.

Motion made and seconded to Grant as Presented:
Vote: Correira, Berube, Ackerman, Vieira , Amaral.....No

Petition Denied

Case #3334**Nenkova****18 Cara Circle**

For: A Special Permit from Section 440 Attachment #2 of the Zoning Ordinance to allow an Air Bed & Breakfast in a Rural Residential District.

For the Petitioner: Vassil & Jivka Nenkova, 18 Cara Circle, Taunton, Ma.

In favor: Deanne Nowland, 108 Segreganset Rd., Taunton, Ma.

Opposed: Cory & Karen Medeiros, 170 Segreganset Rd., Taunton, Ma.

John Cabral, 143 Segreganset Rd., Taunton, Ma.

Jonathan & Paula Habib, 156 Segreganset Rd., Taunton, Ma.

Christy Melo, 163 Segreganset Rd., Taunton, Ma.

Timothy Feeley, 41 Cara Circle, Taunton, Ma.

Fred Thomas, 25 Cara Circle, Taunton, Ma.

Lisa Sullivan, 183 Segreganet Rd., Taunton, Ma.

Susan Thomas, 125 Cara Circle, Taunton, Ma.

Thomas Szilagyl, 275 Segreganset Rd., Taunton, Ma.

Joshua & Jessica Gaskell, 136 Segreganset Rd., Taunton, Ma.

Mr. Nenkova explains that what they are asking for is not your traditional Bed & Breakfast. They rent out 2 rooms to people who come to sleep and leave in the morning. They generally stay a day or two. He stated their guests have to present a photo I.D. and they do a background check on them. They don't rent to sex offenders or criminals. They would never bring someone into their house who is no safe because they have their own children and grandchildren. They would never jeopardize their family. They are required to fill out an extensive questionnaire. They don't allow people who drink alcohol into their house, they have to take off their shoes. If anyone causes any issues they will call police. They have never had to call the police. He stated the people who stay at their house are people who visit the Cape, college students visiting area colleges, people from Spain, France, China. He stated we learn about their heritage and earn a little income. Noise, Music, electronic devices allowed in their home. The people using their services are giving back to the City in using their gas stations, restaurants, laundromats, stores, etc. He has never heard of any complaints from any neighbors. He doesn't know why all the abutters are here tonight. This service provides an affordable way for parents to and tour colleges. He stated in 1991 they met some nice people and now they invite them every year for Thanksgiving. The people he rents to are business people, boat salesman, computer specialists, school principals, soccer, and ice skaters. Wayne asked how many people can they accommodate? Mr. Nenkova answers 6. They could put 3 people in one room (like 2 adults & one child) Joe asked how long have they been doing this? Mr. Nenkova answers 3 years. Letter from the Planner, B.O.H., and Conservation Commission into the record. Joe asked if

they have use of bathroom facilities? Mr. Nenkova answers yes. Steve asked if they misbehave they call police but what happens if they don't leave? Wayne asked do you provide an invoice or contract? Mr. Nenkova says the transaction is validated next night. They pay Air B & B and then he gets paid. Joe asked when they come you ask for picture I.D. and social Security card? He answers yes and it's usually 1 or two cars. Mrs. Nenkova states it's not your traditional B& B. it's like having company at your house. In favor: Deanne Nowland, 108 Segreganset Rd., stated the petitioners are of good character and they do good background checks. Opposed: Cory Medeiros, 170 Segreganset Rd., stated the petitioners are good neighbors but there is no way this is good for their residential neighborhood. There is no vetting process and he knows you (in job as a police officer) they you can't cori them. There is no waiver, no cori checks and you can't say you have done a good enough background check. He has been a police officer for 20 years and he knows about cori checks. He stated this type of business is not conducive to the residential neighborhood. Cory stated he did notice a lot of vehicles over there but thought it was a church group. He stated there was one incident with one unruly individual and there was one person that stayed a couple of months. Opposed: John Cabral, 143 Segreganset Road. Stated this is a cluster development. He read reviews on line and it's clear they serve food. He is the one who filed a complaint with the City. He had concerns with if they had trouble how long would it take for police to respond? He states a cluster residential neighborhood is not a good place for a business. He stated cities and towns need to take a stand on this new Air Bed & Breakfast. He read reviews on line and some are contradictive. He stated the petitioner was unaware he needed any approval fort this business. Mr. Cabral suggests they should have researched this and learned more about the rules before actually doing it. Opposed: Jonathan Habib, 156 Segreganset Road stated the petitioners are quiet, respectful and deep into their faith. But he is concerned with no vetting, security, and false identity. He had no idea it has been going on for 3 years. He did notice one day a guy watching his children play and he didn't know who he was. He stated there is no way of vetting foreigners or non-citizens. He stated this is no way personal. You have to exhibit common sense. Opposed: Christy Melo, 163 Segreganset Rd. stated the petitioners are wonderful neighbors. She was very comfortable living in this subdivision and about 8 months ago she found out this business was here and noticed a lot of cars at house. She assumed it was family visiting. Now her sense of security is lost knowing it's not family its strangers renting. Opposed: Timothy Feeley, 41 Cara Circle stated petitioners are very quiet. He did notice a lot of cars with from different states. His sense of security is gone too and it's very concerning. There are no restrictions. Opposed: Fred Thomas, 25 Cara Circle, Lisa Sullivan, 183 Segreganset Rd., Susan Thomas, 125 Cara Circle, Paula Habib, 156 Segreganset Rd., Thomas & Melissa Szilagyl, 275 Segreganset Rd., Joshua & Jessica Gaskell, 136 Segreganset Rd., Scott & Maria Benevides, 164 Segreganset Rd., Maureen Watts, 30 Cara Circle. Petitioner answers it's impossible to provide fake I.D. because he makes sure it matches the one they initially signed up with. He stated the neighborhood has concerns with people

being in the neighborhood they don't know. He asked about the oil man, landscaper, people like that they don't generally know but are in the neighborhood. He stated yes there are a few cars in his yard on Friday nights because they have Bible study. He stated there was one misunderstanding where one of his guests went to wrong house. He said there were 2 instances where he had to call police and they were there within 2 minutes. He asked why Mr. Cabral didn't come to him to ask about the business instead of complaining to the City? He stated one of the reviews referenced they were not present when guests showed up? He stated his mother-in-law was there to welcome guest. The house is never left unattended if a guest is expected. Keys are never given out to guests. He stated they guy who went to the wrong house is Chief of MBTA Security. He is not invading in on anyone's privacy. He stated there is money spent here in the City. He suggests the Board stick to the facts about the case. He knows this is new to the city. His first year he had 5 guests, 2nd year had 40 guests. Steve asked what happens if you move? Petitioner answers he assumes the approval expires. The Chairman informed him that the approval goes with the property, not the owner. Steve wanted to point out that if he moved then a traditional Bed & Breakfast could continue this use. Petitioner did not know that. Chairman Ackerman stated there are young families in this subdivision and he would be concerned if it was in his neighborhood. He thinks the City should determine where this type of business can go. Wayne stated this is a very quiet, upscale subdivision and they don't want a business in their residential neighborhood. Colby stated he understand the idea of the Air B & B in that you gain cultural experiences versus staying in a "hotel" but there is too much uncertainty. Joe thinks this use is "too new".

Motion made and seconded to Grant as Presented:

Vote: Correira, Berube, Ackerman, Vieira, Amaral.....No

Petition Denied

Case #3335 Sixty Cross Street LLC 500 John Hancock Rd.

For: A Special Permit from Section 440 706-F (2) of the Zoning Ordinance to allow 2 free-standing signs on one lot (each sign is 54 sq. ft.)

For the Petitioner: Atty. David Gay, P. O. Box988, Taunton, Ma.

In favor: None

Opposed: None

Atty. Gay stated this is the site of Martignetti and it's a very large lot having 112 acres. They need 2 signs because they have the main entrance of John Hancock Rd. and the deliveries use 100 Charles Colton Road. Atty. Gay stated this is a unique situation and the 2 signs are needed. No one in favor or

parcel A. The petitioner has been there since 2000 and the whole parcel has been unused. The construction of a single family dwelling will not create a problem with regards to traffic and parking. Atty. Correia stated she met with the City Planner Kevin Scanlon and Michele Restino, Conservation Agent. She stated petitioner spoke to abutters who are in favor. Nick Dufrense, P.E., stated water is available but no sewer so they will have septic system. A well will be desirable but they need to do test pits. Joe stated they have to go to Conservation. Chairman Ackerman read letters from the City Planner, B.O.H., and Conservation Commission into the record. No one in favor or opposed.

Motion made and seconded to Grant as Presented:

Vote: Staples, Berube, Ackerman, Vieira , Amaral.....Yes
Petition Granted

OTHER BUSINESS:

Green Pine Town Homes – requesting reduction of units & removal of market rate fee - Board to determine if minor or major change. – Public hearing will be required if major change. Letter from applicant asking to withdraw because he will be changing plans.