

HULL ZONING BOARD OF APPEALS

Applicant: David Klayman

Property: 110 Manomet Avenue

Date: Thursday, November 7, 2013

Time Meeting Began: 7:35 p.m.

Time Meeting Concluded: 7:44 p.m.

Place of Meeting: Hull Municipal Building, Main Meeting Room

Zoning Board Members Present for Hearing:

Alana Swiec, Chair	Sitting	Attending	Absent	Abstain
Dr. Roger Atherton, Clerk	Sitting	Attending	Absent	Abstain
Atty. Mark Einhorn, Member	Sitting	Attending	Absent	Abstain
Phillip Furman, Associate	Sitting	Attending	Absent	Abstain
Jason McCann, Associate	Sitting	Attending	Absent	Abstain
Patrick Finn, Associate	Sitting	Attending	Absent	Abstain

Others in Attendance:

Walter B. Sullivan, Attorney for Applicant

Karen Morgan, Recording Secretary

General Relief Sought: Continuation – An application filed by David Klayman, 164 Beach Street, Sharon, MA regarding property at 110 Manomet Avenue, Hull, MA – to appeal the Building Commissioner's decision per his letter of February 27, 2013 to issue an order of cease and desist use of the dwelling as a business/commercial venture – a seasonal rental – in a Single-Family Residence District, which use is not allowed per Hull Zoning Bylaws, Section 31-1.

General Discussion: After opening the Hearing, Ms. Swiec stated that this is at least the third meeting regarding this applicant. She stated that she received communication that our action tonight is to decide whether or not this application is to be withdrawn with or without prejudice. At this point, Mr. Atherton distributed the November 1, 2013 letter from Walter Sullivan to the ZBA re: Appeal of Cease and Desist Order by David B. Klayman, Manager of Nantasket Real Estate LLC.

Ms. Swiec – For the record, we have communication received today one from Galvin and Galvin and one from Sullivan & Sullivan. Are members of both parties here?

Mr. Sullivan - I represent the applicant. I am Walter Sullivan of Sullivan & Sullivan, 80 Washington Street in Norwell. I heard what the Board was talking about and I think this situation is unique. I think a withdrawal without prejudice is the proper vehicle here because there is nothing before the Board any

longer. The Building Inspector for the Town of Hull has rescinded his C&D Order which was the matter being appealed. Not just an appeal, but also a special permit, if required. As I read Attorney Galvin's letter, his position isn't that it's not the appropriate vehicle, he says you should not have had heard the appeal the first time. An argument he made at two hearings. In fact, the last line of that 2 page letter he indicates that he has no objection to a withdrawal of the special permit request without prejudice. As this Board did in the companion case regarding Mr. Lytle, the appropriate relief here is to allow the applicant to withdraw without prejudice as a subsequent C&D letter was issued to his client that has been appealed and scheduled in December.

Mr. Swiec – That is correct, it is for December 19th. We had to move it up because it didn't appear we would have a quorum for the December 5th meeting.

Mr. Einhorn – The application has been withdrawn and there is nothing to appeal.

Motion: Mr. Einhorn made a motion that we accept the withdrawal without prejudice.

Member	Motion	Second	For	Against
Alana Swiec, Chair			X	
Dr. Roger Atherton, Clerk		X	X	
Atty. Mark Einhorn, Member	X		X	
Phillip Furman, Associate				
Jason McCann, Associate				
Patrick Finn, Associate				

Recorded by Karen Morgan

Approved by Roger Atherton _____ Date: _____

All actions taken:

All action taken includes not only votes and other formal decisions made at a meeting, but also discussion or consideration of issues for which no vote is taken or final determination is made. Each discussion held at a meeting must be identified; in most cases this is accomplished by setting forth a summary of each discussion. A verbatim record of discussion is not required.