

**Zoning Board of Appeals Minutes  
Selectmen's Room, Middleborough Town Hall  
10 Nickerson Avenue, Middleborough, MA 02346  
January 11, 2018**

Chairman Darrin DeGrazia, Dr. Edward Braun, Dorothy Pulsifer, Liz Elgosin, Joseph Freitas, Jack Healey and Matthew Maher were present.

**7:30 P.M. Minutes**

Upon a motion made by Liz Elgosin and seconded by Jack Healey, the board

VOTED: **to approve the minutes of December 14, 2017.**

Unanimous vote.

**7:30 P.M. Elva Abair by John Scanlon Construction - West Street, Map 58A lot 971**

Chairman Darrin DeGrazia read into the record the legal advertisement and declared the hearing open.

Chairman Darrin DeGrazia informed the board that the hearing tonight will be continued as Daniel Murray, Town Counsel needed additional time to research this matter.

Upon a motion made by Jack Healey and seconded by Liz Elgosin, the board

VOTED: **to continue the hearing until February 8, 2018.**

Unanimous vote.

**7:32 P.M. Buskull Properties for Steven and Michelle Elias – 48 Dona Drive**

Chairman Darrin DeGrazia read into the record the legal advertisement and declared the hearing open.

Joe Kulle, Buskull Property informed the board that they built the house with an accessory apartment in the lower level of the existing single family dwelling. There are three bedrooms on the first floor and one bedroom in the lower level. This was approved as a five bedroom house for the septic. They are requesting a special permit for an accessory apartment.

Liz Elgosin read into the record the following letters: letter dated January 10, 2018, from Robert Whalen, Building Commissioner; letter dated January 5, 2018, from Robert Buker, Health Officer; letter dated January 3, 2018, from Michael Bumpus, Water Superintendent; letter dated December 28, 2017, from Patricia Cassady, Conservation Agent; letter dated January 5, 2018, from Paul Fellini, Planning Department and a letter dated January 11, 2018, from Christopher Peck, DPW Director.

Jack Healey asked if he is the current occupant of the home. Joe Kulle said no. This is a brand new home. The new owners are present tonight and the purchase and sales agreement is contingent on this approval.

Dr. Edward Braun asked who the occupant of the accessory apartment would be. Joe Kulle said it would be Mr. Elias mom, Mary C. Elias. Dr. Edward Braun explained that if she no longer occupied the apartment the home owners would have to come back to this board for a name change before they could rent it out.

Matthew Maher said he doesn't see a second floor plan and asked if there is a second floor? Joe Kulle said it is a ranch with a walk out basement.

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Chairman Darrin DeGrazia asked if anyone would like to be heard on this matter. Hearing no comments Chairman Darrin DeGrazia closed the hearing and called for a motion.

Upon a motion made by Dr. Edward Braun and seconded by Dorothy Pulsifer, the board

VOTED: ***to approve the petition of Buskull Properties, Inc., LLC East Bridgewater, MA 02333 relative to his request to allow for a special permit for an accessory apartment located in the lower level of an existing single family dwelling for Steven and Michelle Elias. The subject property is located at 48 Dona Drive, Middleborough Assessor's Map 042, Lot 5221. This is approved subject to the following stipulations:***

***1. This is limited to Mary C. Elias. In the event that she no longer resides there the applicant shall come back to this board for a name change.***

Chairman Darrin DeGrazia, Dr. Edward Braun, Dorothy Pulsifer, Liz Elgosin and Joseph Freitas were in favor. (5-0)

Upon a motion made by Dr. Edward Braun and seconded by Dorothy Pulsifer, the board

VOTED: ***to adopt the following findings:***

***1. The proposed site is appropriate for the use and structure;***

***2. Adequate and appropriate facilities have been provided to insure the proper operation of the use and structure;***

***3. Traffic flow and safety, including parking and loading are adequate and there will be no nuisance or serious hazard to vehicles or pedestrians;***

***4. Adequate water, sewer, and other utilities as well as other public and private services are available;***

***5. The use involved will not be detrimental to the established or future character of the neighborhood and town and is subject to appropriate conditions or safeguards.***

Chairman Darrin DeGrazia, Dr. Edward Braun, Dorothy Pulsifer, Liz Elgosin and Joseph Freitas were in favor. (5-0)

**7:42 P.M. Timothy Shaw – 29 Harding Street**

Chairman Darrin DeGrazia read into the record the legal advertisement and declared the hearing open.

Timothy Shaw informed the board that he is requesting a special permit for a medical cannabis dispensary located at 29 Harding Street. The have gone before the Board of Selectmen for a letter of support which has been included with the package submitted.

Liz Elgosin read into the record the following letters: letter dated January 10, 2018, from Robert Whalen, Building Commissioner; letter dated January 5, 2018, from Robert Buker, Health Officer; letter dated January 3, 2018, from Michael Bumpus, Water Superintendent; letter dated December 28, 2017, from Patricia Cassady, Conservation Agent; letter dated January 9, 2018, from Paul Fellini, Planning Department and a letter dated January 11, 2018, from Christopher Peck, DPW Director.

Jack Healey said he just wanted to clarify that this is in the General Use District with a DOD overlay. He also feels the parking issues that were addressed in the Planning Boards letter will be addressed by the Building Commissioner.

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Dr. Edward Braun said the issues raised by the Planning Board bother him a little. The plot plan that he is looking at is so tiny and doesn't show any dimensions on it. Timothy Shaw said it does not show the dimensions, it is an existing parking area and they are not changing the use of retail. Dr. Edward Braun said whatever is there today has dimensions, and those dimensions should be on the plan so they know what they are approving. Timothy Shaw said he could get that to the board.

Liz Elgosin said she would like to see the dimensions also because she is not clear about the turning radius, how big the spaces are, which should be 10' x 20', and how accessible the lanes will be with people backing out. Chairman Darrin DeGrazia said the existing parking is grandfathered in because it already exists. Only the new parking spaces will have to be 10' x 20'.

Dr. Edward Braun said he doesn't have an issue with the grandfathering, but there is nothing on the plot plan to even identify what they are. That is all he is asking for. The Planning Board also mentioned Fire apparatus and that is something they should check.

Discussion ensued on the parking plan. Chairman Darrin DeGrazia said they may have a copy of the parking plan as they approved the original one.

Liz Elgosin asked about the security for this location. Timothy Shaw said they will have 24 hour security on site. There will be an alarm system that will be directed to the Police Station and there will be cameras set up on the exterior and interior of the building. Dr. Edward Braun asked if he has spoken to the Police Chief and Fire Chief regarding this. Timothy Shaw said he has spoken with the Police Chief but has not with the Fire Chief. Dr. Edward Braun said usually the applicant would approach the Fire Chief to make sure they can get their apparatus in there. Timothy Shaw said this is an existing building that has been in place for many years. Chairman Darrin DeGrazia said the board did notify the Fire Department of this hearing tonight and there was no comment.

Jack Healey said Mr. Shaw has been working on this for many years now. He is sure this has been a long process. Jack Healey said he is very impressed with the extent of controls you have described in your presentation. Timothy Shaw explained, in detail, the process he has been through so far and the security system he will install.

Chairman Darrin DeGrazia read into the record a letter from the Middleborough Board of Selectmen supporting this request.

Chairman Darrin DeGrazia asked if anyone would like to be heard on this matter. Allin Frawley, 14 Cross Street, and Chairman of the Board of Selectmen said they started this process a number of years ago when Mr. Shaw came before them and they voted to approve this the first time.

Allin Frawley said he voted against decriminalization and voted against legalization for medical use and then Mr. Shaw came before them and he did his research. He realized a lot of the ideas he had about this were based on misinformation. The security concerns, while they are valid, may be misplaced a little. He has done a site visit with Mr. Shaw at another location and it was really an amazing

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experience, like nothing he has ever seen before. The security was impeccable and you could eat off the floors, it was very clean.

The Board of Selectmen voted to approve this the first time and the whole process at the State level got messed up and the applicant had to come back. They voted to approve this again, so the Board of Selectmen voted to approve this twice. The Town of Middleboro voted to decriminalize it and has voted in a positive way regarding the medical marijuana legislature that has come before them. He would appreciate the boards support for this.

Jack Healey asked if it's correct that there will be no consumption on site. Timothy Shaw said that is correct. Jack Healey said the detailed business plan that was submitted is great, he feels the proposed location is a good location and he has no issues with the project and wishes him well on this.

Dr. Edward Braun said philosophically and politically he is very strongly in favor of what he is trying to do. His concern is not about the use, but about requiring the material they need for the records. He feels they should continue this for another date and have the parking plan submitted showing all the dimensions. Jack Healey asked if he wanted to see something from the Fire Chief as well. Dr. Edward Braun said yes.

Discussion ensued regarding the continuance.

Hearing no further comments Chairman Darrin DeGrazia closed the hearing and called for a motion.

Upon a motion made by Dr. Edward Braun and seconded by Jack Healey, the board

**VOTED: to continue the hearing until January 25, 2018.**

Unanimous vote.

Chairman Darrin DeGrazia welcomed Matthew Maher to the Zoning Board of Appeals.

Upon a motion made by Liz Elgosin and seconded by Jack Healey, the board

**VOTED: to adjourn at 8:20 P.M.**

Unanimous vote.