

TOWN OF WASHINGTON
Bryan Memorial Town Hall
Post Office Box 383
Washington Depot, Connecticut 06794
Zoning Board of Appeals Special Meeting

MINUTES

September 16, 2021

7:30 P.M. – Hybrid Meeting

MEMBERS PRESENT: Chairman Bowman, Mr. Wildman, Mr. Wyant, Mr. Weber, Mr. Horan

ALTERNATES PRESENT: Ms. Rebillard, Ms. Sweeney, Mr. Sarjeant

STAFF PRESENT: Ms. White, Ms. Rill, Attorney Zizka

PUBLIC PRESENT: Ms. Hearn, Ms. Usatay, Mr. Girdhar, Attorney Grickis, Attorney Pires, Mr. Casey, Ms. Solomon, Ms. Branson, Mr. Owens, Mr. Brooks, First Selectman Brinton, Ms. Buyea, Ms. Tagley, Ms. Revere, Mr. Duke, Ms. Frank, Other Members of the Public

The Meeting was called to Order at 7:30pm.

ZBA-1128: Request of MFMISC2013, LLC, 116 Woodbury Rd., for an Appeal of a Cease and Desist Order given by the Town of Washington Zoning Enforcement Officer - for use of generators and sound amplification equipment at or in connection with a previously authorized Special Permit:

Chairman Bowman, Mr. Wildman, Mr. Horan, Mr. Wyant and Mr. Weber are seated for this Public Hearing.

Attorney Grickis, representing MFMIS2013, LLC (also known as The Mayflower Inn and Spa), introduced Mr. Girdhar, General Manager of the Mayflower Inn and Spa to the Commission. Mr. Girdhar apologized to the public for the miscommunication regarding the number of events scheduled throughout the year, and for the notion that there would not be any sound generated during the events held in the Hospitality Tent that was permitted by the Zoning Commission in December of 2019. Mr. Girdhar stated that The Mayflower wished to maintain a good relationship with its neighbors and was willing to do what they could to remedy the situation.

Attorney Grickis stated he would like to hear from the Public so that he could respond to any comments or concerns they may have.

Mr. Weber questioned if They Mayflower was admitting that they were not complying with the terms of the Special Permit. Mr. Girdhar responded by stating the Special Permit was an amendment to an already existing permit for the Spa. He felt this was done incorrectly and should have been a separate permit. Mr. Grickis added that the application submitted was defective and should not have been applied for in this manner. He explained that The Mayflower had no intention of deceiving the Zoning

Commission or the Town of Washington in any way, and stated his clients would like to reapply with a brand new Application to the Zoning Commission with Public Hearing so that the Commission as well as the neighbors' concerns could be discussed thoroughly.

Chairman Bowman stated that he did not believe the neighbors in attendance were upset because The Mayflower piggy-backed on another permit, they were there because of the noise nuisance that was being generated.

Chairman Bowman questioned Attorney Grickis if the Mayflower intended to continue with their events if the Zoning Board of Appeals decided to uphold the Cease and Desist. Attorney Grickis stated that The Mayflower was under contract to fulfill the upcoming events and cancelling them at this point would create a huge financial responsibility. He added that all future events have been amended so that the facility has control over the sound amplified from the premises. Chairman Bowman pointed out that this could have been done at the time the Special Permit was granted. Attorney Grickis agreed with Chairman Bowman. Mr. Weber questioned what will be put into place for the rest of this event season. Mr. Girdhar explained that The Mayflower has or will be speaking to the entertainment company(s) hired for those events and has requested that the amplification of the music be turned down to a decent level as to not disrupt the area. He added that the tent will be coming down on November 1, 2021.

Chairman Bowman then asked for comments from the Public.

Attorney Pires, representing neighboring property owners Mr. Casey and Mr. Duke, stated that The Mayflower was issued the Cease and Desist in August 2021 and in that time had not taken any action to rectify the situation and were, in fact, still holding events. He added that his clients have recorded decibel levels reaching 75 to over 80 at times living almost 900 feet away from the property line. Attorney Piers stated that had reviewed the recording of the December 16, 2019 Public Hearing for the tent application and added that The Mayflower stated that no noise would leave the tent, not just the property line.

Ms. Hearn of Wykeham Road stated that since the tent has been erected that her entire neighborhood has changed. The amount of traffic has increased, that a back entrance to the property which is not supposed to be used is traveled frequently, and that the noise illuminating from the property is unpleasant and is right in her backyard.

Ms. Buyea of Old North Road stated that she has lived in Washington for 18 years and has always been a huge fan of The Mayflower and wants for them to succeed. She stated that since this tent has been erected she feels as though she has attended a wedding every weekend. She added that last year, a temporary tent was erected at the height of Covid and a large event took place that not only exceeded the number of guests allowed during the pandemic, but lasted until midnight if not longer. Ms. Buyea stated that the music is so loud that she cannot sit out on her porch or even open her windows. She asked the Commission to please consider upholding the Cease and Desist.

Mr. Duke of Old North Road presented the Commission with several documents that included pictures of the tent. He stated that the first event was held in August of 2020. He explained that he had reviewed the December 16, 2019 meeting recording during that meeting a Zoning Commission

member had asked if any generators would be used in the tent, to which the presenter of the application had responded by stating that no generators would be used. Mr. Duke stated that there are not only two generators in the tent area there are also air conditioners. He added that one week after the Cease and Desist order was given to The Mayflower, all of this equipment was still on the property. He added that he is sympathetic to the hotel industry and their success during these times, but he does not trust The Mayflower currently but hopes that they will be considerate to the neighbors and community as they move forward to resolve the issue.

Mr. Casey of Old North Road stated that there have been twelve events at The Mayflower this Summer, and he records and measures the decibel level at each event, adding that he has recorded decibels as loud as 78 from over 900 feet away. Mr. Casey stated that he has called The Mayflower during each event and has asked them to please turn down the music to no avail. He thanked Ms. White and First Selectman Brinton for their assistance and asked the Commission to uphold the Cease and Desist.

First Selectman Brinton stated that when he first received complaints from the neighbors, he visited The Mayflower the following day and met with then general manager, Mr. Benyair, assured him that there were only four events scheduled for the rest of the season and that they would mitigate the noise. This did not happen, and the following week there were several more complaints. Mr. Brinton stated he then met with current General Manager, Mr. Girdhar, and was told there were eleven more events scheduled. Mr. Brinton stated that he has now received from Old North Road, Wykeham Road, Bell Hill Road, Sabbaday Lane and Plumb Hill Road. He added that while he wanted to see The Mayflower succeed, he stressed the importance of being a good neighbor and asked for the Commission to uphold the Cease and Desist.

Attorney Zizka, Land Use Attorney for the Town of Washington, stated that the representation of the application was that there would be no noise. He added that one of the several requirements under a Special Permit for the Town of Washington is to describe the possible noise impacts this could have for the area, and the Applicant stated there would be no noise impact, and that has turned out to not be true. If the Applicant had stated there would be possible noise impact, the Zoning Commission could have then conditioned the Special Permit to limit the noise, but this was not the case.

Attorney Grickis stated that he agreed with Attorney Zizka and felt that the numerous comments regarding trust with The Mayflower were understandable. He added that with his current involvement, he would like to see the proper measures taken on behalf of The Mayflower to do what is thoughtful and correct.

Ms. Buyea questioned what the process is going forward. Chairman Bowman stated that once the Public Hearing closes, the Commissioners will discuss whether or not to uphold the Cease and Desist and vote upon that. Ms. Buyea then asked if The Mayflower would still be able to hold their events moving forward. Chairman Bowman stated that The Mayflower would be held responsible with any penalties that may occur if they continue with the events.

Mr. Owens stated that he had presented the Washington Zoning Commission with the Special Permit application for The Mayflower's hospitality tent. He stated that the application was a modification on the original Special Permit for the Spa. He clarified that he did not feel this was the incorrect way to

go through the process and believed they were advised to apply in this manner. Mr. Owens clarified that under the conditions of Washington Zoning Regulations Section: 13.1.C.8, which was adapted to the Regulations after a dispute over a generator close to a property line in the late 1990's, the intent of that Section was to define what noise generating equipment is and what an acceptable decibel would be from the property line. He stated that he did not feel the application was misrepresented or falsely represented in any way.

Mr. Casey added that the 2003 Special Permit application for The Mayflower Spa stated there would not be any noise generating from that structure, and if the tent was applied for as a modification to that Special Permit, there would be no noise for this structure either.

MOTION: To close the Public Hearing in the matter of ZBA-1128: Request of MFMISC2013, LLC, 116 Woodbury Rd., for an Appeal of a Cease and Desist Order given by the Town of Washington Zoning Enforcement Officer - for use of generators and sound amplification equipment at or in connection with a previously authorized Special Permit. Motion made by Mr. Wyant, approved unanimously.

Mr. Horan stated that he felt the Cease and Desist order was given properly and appropriately and would vote to uphold it.

Mr. Wildman, Mr. Wyant and Mr. Weber agreed.

Chairman Bowman agreed, stating that he felt it was unfortunate it had come to this point, and that events were still taking place with complete disregard to the issuance of the Cease and Desist.

Chairman Bowman clarified to the Commission that a yes vote is in support of The Mayflower Appeal to the Cease and Desist order and that a no vote will support the upholding of the Cease and Desist.

MOTION: In the matter of ZBA-1128: Request of MFMISC2013, LLC, 116 Woodbury Road, the Washington Zoning Board of Appeals votes to uphold the August 13, 2021 Cease and Desist Order to MFMISC2013, LLC from the Town of Washington Zoning Enforcement Officer – for use of generators or sound amplification equipment at or in connection with a previously authorized Special Permit, with the Commissioners voting as follows; Mr. Wildman: no, Mr. Horan: no, Mr. Wyant: no, Mr. Weber: no, Chairman Bowman: no. Approved to uphold the August 13, 2021 Cease and Desist Order unanimously.

MOTION: To Adjourn the September 23, 2021 Washington Zoning Board of Appeals Special Meeting at 8:27pm, by Mr. Wyant, seconded by Mr. Horan, approved unanimously.

Respectfully Submitted,

Tammy Rill

Land Use Clerk

September 24, 2021

