

**BOARD OF APPEALS  
REGULAR MEETING MINUTES  
WEDNESDAY  
OCTOBER 14, 2015**

**Members Present:** Gerald Coutinho, Vice Chairman  
Heather L. Salva, Clerk  
Donna Lambert  
Gary Simmons  
Larry Kidney  
Roger Menard

**Members Absent:** Christopher Graham, Chairman

Vice Chairman Coutinho called the Zoning Board of Appeals meeting to order at 7:00 P.M. in the Westport Town Hall, 816 Main Road, Westport, MA with the reciting of the Pledge of Allegiance by all present.

**Pledge of Allegiance**

**Chairman's Announcement** - Under MGL Chapter 30A, section 20(e) – Meeting being recorded.

**Edward Howe – RE: An application request for an Administrative Appeal of the Building Commissioner's denial regarding a request for enforcement of a zoning violation at 417 Hix Bridge Road, Westport, MA. The property is shown on Assessors Map 50, Lots 12, 17, 18 and 20.**

Hearing Petition: Gerald Coutinho, Gary Simmons, Donna Lambert, Heather Salva,  
Roger Menard

Also present: Ralph Souza, Westport Building Commissioner  
Attorney Jeffrey Blake, Westport Town Counsel-Kopelman & Paige  
Edward Howe, applicant  
Attorney Mark Bobrowski, representing the applicant  
Robert Russell, Westport Rivers, Inc.  
Attorney Brian Corey, representing Westport Rivers, Inc.

Abutters and those speaking during public input were Edward Ferreira, Chairman of the Agricultural Commission, Kate Lavine, Agricultural Rep., Sue Guiducci, Dartmouth Agricultural, Gregory Knowles, 1907 Drift Road, Susan Szekely, 395 Hix Bridge Road, Laurie Ammann, 513 Old County Road.

**7:05 PM**

Acting Chairman Coutinho opened the hearing with the reading the Public Hearing Notice. Mr. Coutinho then invited Attorney Bobrowski to present his client's (Edward Howe) petition; followed by a presentation given by Attorney Corey representing his client (Westport Rivers, Inc.). Once all the presentations were given, Mr. Coutinho opened the hearing to anyone wishing to speak for or against the petition.

**The following exhibits were submitted at the hearing:**

1. Cross Spectrum Acoustics Report dated October 5, 2015;
2. A list of events held on the property.
3. A list of Sunset Music Concerts held on the property.
4. An email from Attorney Blake to Building Commissioner regarding opinion of "Request for Enforcement Westport Rivers Winery" dated May 8, 2015.

5. A letter to Building Commissioner Souza from Attorney Bobrowski dated July 10, 2015.
6. A copy of an aerial map taken from [www.mapgeo.com/WestportMA](http://www.mapgeo.com/WestportMA).

### **8:50 PM**

Following the presentation of facts, evidence and the intake of public input:

**Motion** made by Ms. Salva to close the hearing. Second by Mr. Simmons. The Board voted 4 in favor, 1-opposed (Coutinho).

### **The following findings were made by the Board:**

1. On or about July 10, 2015, Edward Howe, Trustee of the Howe Farm Real Estate Trust and Manager of the Howe Family Farm LLC (“Howe”) filed a Request for Enforcement with the Building Commissioner requesting that the property owner at 417 Hixbridge Road (the “Property”) be ordered to stop using the property for a “Sunset Music Concert Series” and other promotional events at the Property.
2. As a result of this Request for Enforcement, the Building Commissioner declined to enforce determining that the complained of use of the Property was accessory to the agricultural use, i.e., a winery.
3. Howe took this instant appeal.
4. The Property is located in a Residential/Agricultural District (the “Zoning District”).
5. As a threshold matter, both parties to this appeal agreed that the use of the Property for a winery was an allowed agricultural use in the Zoning District under the Town’s Zoning Bylaw.
6. Testimony was presented that indicated that above referenced concert series and other promotional activities were conducted at the Property as a means of advertising the winery and increasing the market for the sale of the wine produced at the Property.
7. Testimony was presented that other wineries within the Commonwealth hold similar events as a means of advertisement and increasing the market for their product.
8. Based on the above, the Board of Appeals finds that the complained of uses of the Property for a Sunset Music Concert series and other promotional events at the Property are customarily incidental and subordinate to the principle use of the Property.
9. Therefore, the complained of use is an allowed accessory use of the Property in the Zoning District.

### **Vote taken by the Board:**

**Motion** made by Ms. Salva to uphold the Building Commissioner’s denial of Applicant’s Enforcement Request based on the above findings. Second by Mr. Simmons. The Board voted 4 in favor, 1-opposed (Coutinho).

### **Approval of Minutes**

1. **Motion** made by Mr. Simmons to approve the Regular Meeting Minutes of August 12, 2015. Second by Mr. Kidney. The Board voted 4 in favor, 2-abstentions (Lambert, Souza), 1-absent (Graham).
2. **Motion** made by Mr. Simmons to approve with amendments the Regular Meeting Minutes of September 02, 2015. Second by Mr. Kidney. The Board voted 5 in favor, 1-abstention (Lambert), 1-absent (Graham).

### **Action Item**

1. **Motion** made by Mr. Simmons to approve the bill voucher for Horsely Witten Group in the amount of \$597.00. Second by Mr. Menard. The Board voted 6 in favor, 1-absent (Graham).

### **Correspondence** – None.

**Other business** – None.

**Topics not reasonably anticipated forty-eight (48) hours in advance of the meeting** – None.

**9:05 PM**

**Motion** made by Mr. Simmons to adjourn the Zoning Board of Appeals meeting. Second by Mr. Kidney.  
**The Board voted 6 in favor, 1-absent (Graham).**

**Adjournment.**

Respectfully submitted,

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Diane Pelland, Principal Clerk to the Zoning Board of Appeals

**APPROVED:** \_\_\_\_\_  
Heather L. Salva, Clerk