



**TOWN OF MAYNARD**  
**Zoning Board of Appeals**  
**Office of Municipal Services**

195 Main Street  
Maynard, MA 01754  
Tel 978-897-1302

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**RECEIVED**

**SEP 12 2022**

**Town Clerk's Office**  
**Maynard, MA 01754**

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**Findings and Decision**

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<b>Petition No:</b>	ZBA 22-04
<b>Application Date:</b>	March 17, 2022
<b>Project Name:</b>	123 Summer Street
<b>Project Location:</b>	123 Summer Street
<b>Map &amp; Lot #</b>	Map 8, Lot 164
<b>Type:</b>	Special Permit
<b>Property Owner/Applicant:</b>	Donna Dodson & Andy Moerlein 123 Summer Street Maynard, MA. 01754
<b>Current Zoning:</b>	Single-family 1 (S-1)
<b>Parcel Size:</b>	1.0 acre
<b>Description of Request:</b>	Special Permit to allow a Trade Shop use (Artist Studio) in the barn at 123 Summer Street

**I. Procedural History**

- a. Pursuant to Massachusetts General Law Chapter 40A, Section 10, an Application for a Special Permit was submitted by the above-referenced owner and filed with the Zoning Board of Appeals (ZBA) on March 17, 2022.
- b. Notice of the public hearing was published in the Beacon-Villager on April 7 and April 14, 2022, and sent to parties in interest, as required by statute, by certified mail, return receipt requested, according to the Assessors' Certified Abutters List.
- c. A virtual public hearing on the Special Permit Application was originally scheduled to be opened on April 25, 2022, but at the Applicant's request, was continued by the

ZBA to the meeting of June 27, 2022, where it opened. The hearing was continued thereafter to July 25, 2022, and August 22, 2022. The hearing was closed on August 22, 2022, and ZBA deliberations concluded on September 8, 2022.

- d. The application documentation and other submitted material were reviewed by Town Staff. There were no staff objections to the application.
- e. Many interested parties spoke both in support of, and against, the application during the hearings of June 27<sup>th</sup>, July 25<sup>th</sup> and August 22<sup>nd</sup>, 2022. Additionally, the ZBA received a significant number of emails. Minutes of the meetings where this petition was heard are contained as Exhibit “A”.

## II. Regulatory Criteria

The Applicant requested a Special Permit to allow a “Trade Shop” use in the S-1 Zoning District. The Building Commissioner determined the requested use (Artist Studio) is a “Trade Shop”. Section 3.2 of Maynard’s Zoning By-laws (ZBL) govern Accessory Uses and Other Uses. Section 3.2.5 provides the criteria in which the Zoning Board of Appeals (ZBA) may grant a Special Permit to allow a Trade Shop use:

*3.2.5 Trade Shop A builder, carpenter, mason, painter, plumber, tinsmith, upholsterer, machinist, or other craftsmen who lives and maintains a home on the premises or building may use said home or building thereon in connection with his trade by annual Special Permit from the Board of Appeals*

A Special Permit for a Trade Shop is valid for a one-year period. A renewal request requires a new hearing by the ZBA.

Section 10.4 of the Zoning By-laws provides the Special Permit approval process. A Special Permit shall be granted only upon determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the characteristics of the site, and of the proposal in relation to that site. In addition, the determination shall include consideration of each of the following:

- a. Social, economic, or community needs which are served by the proposal.
- b. Traffic flow and safety, including parking and loading.
- c. Adequacy of utilities and other public services.
- d. Neighborhood character and social structures.
- e. Impacts on the natural environment.
- f. Potential fiscal impact, including impact on Town services, tax base, and employment.

## III. Findings

The ZBA made the following findings of fact during the Public Hearing:

- a. The Applicant has been operating an artist studio for approximately six years in a barn located on the subject property. In January 2022, the Building Commissioner determined the activity constitutes a Trade Shop use and required a Special Permit. Cease-and-desist order issued.
- b. Activities include artistic work in a barn on site. The work involves a variety of techniques including use of power tools.
- c. Activities also included artistic work both in the foyer of the barn and in the yard. The work involved a variety of techniques including use of power tools. Noise-generating non-powered activities also occurred.
- d. There have been complaints from the abutting neighbors regarding noise, light, odors, and outside storage of Trade Shop related materials, as well as complaints of public events being held at the subject property.
- e. Safety data sheets for materials stored and used on site note approximately one quarter of the materials emit volatile solvents
- f. The ZBA conducted two site visits (July 12<sup>th</sup> and 14<sup>th</sup> 2022) with the following observations:
  - Negligible noise outside of building when tools used entirely within barn.
  - Significant noise when tools used in foyer or outside of barn.
  - No dust collection devices or vapor control devices present.
  - Barn windows spill light on abutting property and run the length of the barn.

#### IV. Vote of the Board and Decision

The ZBA deliberated, considered, and finds, that so long as the Conditions of Approval set forth hereafter are met, the Criteria as detailed in Section II will be satisfied as follows:

- a. Social, economic, or community needs which are served by the proposal:

*The Applicant is active in the business community, contributes to people coming to Town for economic development and provides educational opportunities for interns. Therefore, the Applicant meets this criterion by contributing to the social, economic and community needs of Maynard.*

- b. Traffic flow and safety, including parking and loading:

*There are no customers coming to site, the traffic to and from the property is nothing different than typical residential area. Evidence has shown that many times the Applicants are not working on the subject premises for extended periods. Furthermore, there are infrequent deliveries or shipments. There is no adverse impact on traffic and public safety.*

c. Adequacy of utilities and other public services:

*There is no additional impact on public utilities. The use is a standard single family home use demand on services. Additionally, the Applicants have installed solar panels on site to aid in electric generation. Use of water is typical for residential use. Therefore, the utilities and public services have no adverse impact from the proposed Trade Shop use.*

d. Neighborhood character and social structures:

*There is no outward appearance of commercial activity, there are no employees, and no significant deliveries. Additionally, with the Conditions of Approval contained in this Decision implemented, any additional impacts would be mitigated. The appearance is that there is a residence and a barn, no different than adjacent homes. The neighborhood character and social structures are not changed by this use.*

e. Impacts on natural environment:

*The Applicants have shown how they have taken a former scrap metal recycling business which was unsightly on the property and converted the property into a residence and Trade Shop. There are no outward impacts on the environment. Indeed, evidence shows that the Applicants have installed rain gardens, solar panels, drains for ground water recharge, the proposed Trade Shop is energy efficient, and the proposed use is taking place entirely inside the barn as conditioned below. Therefore, there are no impacts on the natural environment from the proposed use.*

f. Potential fiscal impact including impact on Town services, tax base and employment:

*There are only positive fiscal impacts on the Town. There are no employees; however, there is a contribution to art community and cultural setting.*

Motion to approve the Special Permit request for a Trade Shop use at 123 Summer Street subject to the Conditions of Approval as contained in Section V of this Decision made by Board Member Leslie Bryant. Motion seconded by Board Member Jerry Culbert.

The Board voted as follows ("Y" to approve):

Paul Scheiner (Chair)	Y
Leslie Bryant	Y
Jerry Culbert	Y
Page Czepiga	Y
Brad Schultz	N

## V. Conditions of Approval

- a. All Trade Shop activities shall occur in the barn/studio.
- b. All noise generating activities associated with the Trade Shop use shall be conducted within the studio. Noise levels shall be controlled to be minimally detectable outside the studio.
- c. The window fan dust exhaust system must not be used. A conventional dust control system should be used as needed.
- d. All vapor-generating activities associated with the Trade Shop use shall be conducted within the studio.
- e. Hours indoors for noise-generating activities: 9AM to 5PM Monday thru Saturday, Sunday 12 PM-5PM.
- f. No outdoor activities related to Trade Shop are permitted - no chain-sawing, bamboo splitting, or similar noise-generating activities; no painting or other odor-generating activities, no stockpiling of merchandise, or work-in-progress, or finished items, or raw materials shall be stored outside.
- g. Normal lawn, yard, and garden maintenance activities associated with the residence are permitted including, but not limited to, lawn mowing, hedge trimming, and snow removal. This permit and these conditions relate solely to the Trade Shop use.
- h. Vapors and fumes are to be collected in a hood system and not exhausted to the outside of the studio. No exhaust duct is to be discharged to the outside. Mitigated levels of vapors are to be confirmed after control devices are installed and before vaporous materials are used on a regular basis.
- i. All use, storage, and quantities of hazardous materials must be consistent with Board of Health and Fire Department Regulations.
- j. Up to two interns are permitted on site for a maximum of four hours per day each.
- k. There shall be no employees except the occasional worker to assist in loading and unloading or moving material to or from the barn and/or to perform tasks inside the barn.
- l. Trade shop-related showings/events shall be limited to two weekends a year (Saturday and Sunday). For the purposes of this decision, a public invitation advertised, or a private invitation to 4 or more individuals, associated with the Trade Shop use, shall constitute an event/showing.
  - a. All visitor parking shall be on the Applicant's property.

- b. Hours shall be between 9:00 AM and 5:00 PM.
- c. All other restrictions of this permit remain in effect.
- m. Deliveries by vehicles with three or more axles connected with the Trade Shop use shall be restricted to one (1) per week. Deliveries shall not occur on weekends or on federal holidays. All trucks shall be loaded and unloaded on the property and not in or on the public way.
- n. Light emanating from the storage room studios along the side of the barn must be mitigated by shades or other light blocking devices from dusk to dawn.
- o. There shall be no sign indicating a Trade Shop use.
- p. There is not time or day limitation on photography or videography work occurring inside the barn.
- q. This Special Permit is valid for one (1) year from the effective date of the Decision. If renewal is desired, a new application must be filed with the ZBA.

*General Conditions*

*Recording of Decision and Approved Plans:*

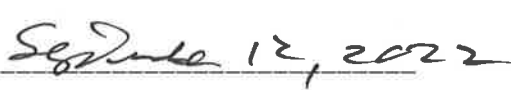
The Applicant shall file this decision with the Middlesex South District Registry of Deeds (or Land Court if registered land) and a copy of the decision stamped with the recording information (Book/Page or Land Court document number) shall be provided to the Building Department.

*Appeals*

Appeals shall be made within twenty (20) days after the date of filing this decision in the Office of the Town Clerk directly to a court of competent jurisdiction in accordance with the provisions of M.G.L., Chapter 40A, Section 17.



Paul Scheiner, Chair  
For the Zoning Board of Appeals

  
Date

**\*\*NOT VALID UNTIL CERTIFIED BY THE TOWN CLERK OF MAYNARD\*\***

**Exhibit A**  
**ZBA Meeting Minutes of June 27, July 25, and August 22, 2022**

## EXHIBIT "A"

### Maynard Zoning Board of Appeals (ZBA) Meeting and Public Hearing June 27, 2022 – 7:00 p.m. (Held remotely via Zoom due to COVID-19)

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**ZBA Board Members Present:** Paul Scheiner – *Chair*; Page Czepiga – *Vice Chair, alternate*; Leslie Bryant; John Courville; Brad Schultz; Jerry Culbert

**Others Present:** Bill Nemser – *Planning Director*; Julia Flanary – *Asst. Planning Director*

Donna Dodson – 123 Summer St; Andy Moerlein – 123 Summer St; Toni-Ann and Thomas B. Lydon – 6 Loring Ave.

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**Called to Order** at 7:03 p.m. by Chair Scheiner.

#### **Approval of the Minutes of May 23, 2022**

*Ms. Bryant made a motion to approve the Minutes from the May 23, 2022 meeting, which was seconded by Ms. Czepiga.*

***The Board voted unanimously in favor of the motion.***

#### **Public Hearing – 6 Loring Ave**

Application to consider the Special Permit renewal request of Toni-Ann and Thomas B. Lydon to allow Home Occupation (Hairdresser) within their residence located at 6 Loring Avenue. Maynard, MA 01754.

Ms. Lydon requested a renewal of the five year special permit to have the hairdressing shop in her home.

Chair Scheiner asked for comments in favor of, or in opposition to the applicant. No public comments were made. Chair Scheiner asked for comments from the Board. Ms. Bryant asked to clarify if the applicant was seeking a 5-year continuation, and that there have been no prior complaints. The applicant confirmed both.

*Ms. Bryant made a motion to approve the special permit for 5 years to allow the operation of a Hairdresser at 6 Loring Avenue, in the general residential neighborhood. Customers are by appointment only. No more than 4 customers to be on the premises at*



## EXHIBIT "A"

*a time. Two off street parking spaces shall be maintained. The business hours are: Tu, Th, Sat 7 a.m. – 1 p.m.; Friday 7 a.m. - 7 p.m. When a holiday falls on a business day, the shop may be open on the preceding day in conformance with Massachusetts General Business Law.*

*Mr. Courville seconded the motion.*

***The Board voted unanimously in favor of the motion.***

### **Public Hearing – 123 Summer Street**

To hear all persons interested in the Special Permit Application filed by Donna Dodson & Andy Moerlein, 123 Summer Street, Maynard, MA 01754. The subject property, 123 Summer Street, is located within the S-1 Zoning District. Consistent with Section 3.2.5 of the Zoning By-laws, the petitioner is requesting a Special Permit allowing a trade shop use (Artist Studio) within the subject property.

Douglas Deschenes, Esq. of Finneran and Nicholson PC, spoke on behalf of the applicant. He presented a site plan and photographs of the property and structures. The following points were made:

- No employees; no retail activity on site
- 4-8 significant deliveries per year
- Ample off street parking; no impacts to traffic flow
- Produce own electricity with solar panels
- No toxic materials; no odors
- Made improvements to structures and property. Including soundproofing and privacy screening
- Contribute to local community arts

There have been numerous letters of support for the applicants, but also some complaints from neighbors regarding noise, traffic and odors. The Board of Health made a visit on one occasion, but could not substantiate the claims. A cease and desist order was issued by the Building Inspector in February 2022.

Chair Scheiner asked if there are current issues that need addressing, whether the applicants have changed their practices or have complaints been overblown. Mr. Deschenes responded that it is a bit of both. They have redesigned the barn to be soundproof. They are doing noisy

2

Minutes of the Zoning Board of Appeals Meeting  
June 27, 2022 – 7:00pm  
Virtual Meeting via Zoom  
Approved 07.25.22

EXHIBIT "A"

## EXHIBIT "A"

work inside the studio as much as possible. His clients are very willing to adhere to conditions of the special permit in order to continue their work.

Ms. Bryant asked for particulars of the most recent complaint. Mr. Deschenes stated that according to the Building Inspector's report, there were complaints of excess noise both inside and outside the studio and early morning commercial deliveries. The Building Inspector determined that these activities are not allowed by-right and a special permit is needed.

Ms. Bryant asked about a neighbor's complaint of noxious fumes coming from the barn that drifted into their home. Mr. Deschenes responded that they are using acrylic, oil and latex paints, and oils and clear-coats (polyurethane).

Mr. Schultz pointed out that the applicants have had opportunities to address complaints in the past and have not done so. What would be different going forward? Mr. Deschenes responded that there was a period between 2016-2022 where there were minimal complaints regarding events, but those issues have abated. His clients have complied with the Building Inspector's directives. Mr. Schultz stated they have in fact not complied with the Building Inspector.

Mr. Schultz asked what percentage of the house is used for personal use and not the business. Mr. Deschenes responded that they store their own artworks in the residence.

Mr. Schultz asked if there are running water and restroom facilities in the barn, to which Mr. Deschenes replied no. Therefore they are using the house as part of the business. Mr. Schultz suggested that the primary use of the property is business, and it's not in fact an accessory or secondary use. Mr. Schultz asked if the property is occupied when they're away and they replied it is not.

Mr. Schultz asked if the applicants use metal, fiberglass or resins, to which the answer was no. They do use some ceramics.

Mr. Schultz asked how many people are on the site at any give time. Mr. Deschenes replied usually 2 people are on the premises, except for any approved Open Studio night. Mr. Schultz asked about interns. Ms. Dodson responded they usually have about 1 intern a year for a semester – approx. 5 hrs a week (2-3 afternoons) for a 10 week semester. All activities take place between 9 a.m.-5 p.m.

Ms. Czepiga asked about the materials and tools used, and the frequency. There is a difference between finishing a deck and taking down a tree limb, for example, and ongoing continuous use. An estimate of frequency would contribute to the board's understanding.

Mr. Moerlein responded that outside work is very infrequent – usually work is inside the studio, unless it is messy.

3

Minutes of the Zoning Board of Appeals Meeting  
June 27, 2022 – 7:00pm  
Virtual Meeting via Zoom  
Approved 07.25.22

EXHIBIT "A"

## EXHIBIT "A"

Ms. Czepiga asked about the foam insulation in the studio. Is it more than the building code minimum? Mr. Deschenes replied they added 2" hardcore foam panels. Mr. Moerlein stated that they designed the studio to be energy efficient and low impact on the environment and neighbors.

Ms. Czpeiga asked if the bamboo on the property is for visual screening, or used in projects or for art materials. Ms. Dodson responded it was planted as a visual screen and that they don't harvest it for their work.

Ms. Bryant asked if they have smoke detectors in the studio and they responded yes.

Mr. Culbert explained that he is a safety engineer and performs OSHA noise surveys and asked if any noise sampling has been done around the property. He prefers technical definitions using decibels instead of subjective measurement. Mr. Deschenes responded that they haven't but would be willing to.

Mr. Deschenes also invited the Board to see the facility and test the machines inside and outside, close to the neighbors' houses (with their approval). They could show the materials and tools used, etc. Chair Scheiner responded that it was a good idea and also asked for the MSDS for the paints and stains used. The applicant will provide those.

Ms. Bryant asked to confirm if Maynard has noise bylaws. Mr. Nemser responded that the town defers to Massachusetts DEP noise standards. Chair Scheiner asked Mr. Nemser to provide those standards for the next meeting.

Chair Scheiner asked about outside versus inside activity. Ms. Dodson responded that they do 90-95% of activity inside of the studio. Mr. Moerlein added that messy things like applying spray paint is best done outside.

Chair Scheiner asked to postpone public comment until the next regularly scheduled meeting of July 25 and asked Mr. Deschenes if that is acceptable, to which he responded yes. A site visit would be scheduled before that meeting, which will be coordinated by Mr. Nemser. This hearing will remain open.

Michael Hart (abutter) asked why we have to wait a month when the matter is fresh in everyone's mind. The applicant's lawyer presented for an hour and no public comments have been allowed. Chair Scheiner said that was his proposal so the meeting does not go until midnight.

*Ms. Bryant made a motion to continue the hearing until July 25 at 7:00 p.m., which was seconded by Ms. Czepiga. This will be a remote hearing.*

***The Board voted unanimously in favor of the motion.***

4

Minutes of the Zoning Board of Appeals Meeting  
June 27, 2022 – 7:00pm  
Virtual Meeting via Zoom  
Approved 07.25.22

## EXHIBIT "A"

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### Public Hearing – 9 Pine Hill Road

Application to consider the Special Permit request of Leslie Zelamsky to allow Home Occupation (Dog Training) based at her residence located at 9 Pine Hill Road, Maynard, MA 01754.

The applicant was not able to join the call.

*Ms. Czepiga made a motion to continue the hearing to the next regularly scheduled meeting of July 25 at 7:00 p.m. which was seconded by Mr. Courville. This will be a remote hearing.*

***The Board voted unanimously in favor of the motion.***

*Ms. Bryant made a motion to adjourn the meeting, which was seconded by Mr. Culbert.*

***The Board voted unanimously to adjourn the meeting.***

The meeting was adjourned at 9:00 p.m.

# EXHIBIT "A"

## Maynard Zoning Board of Appeals (ZBA) Meeting and Public Hearing July 25, 2022 – 7:00 p.m. (Held remotely via Zoom due to COVID-19)

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**ZBA Board Members Present:** Paul Scheiner – *Chair*; Page Czepiga – *Vice Chair, alternate*; Leslie Bryant; John Courville; Brad Schultz; Jerry Culbert

**Others Present:** Bill Nemser – *Planning Director*; Julia Flanary – *Asst. Planning Director*; Adam Costa, *Town Counsel*

Donna Dodson – 123 Summer St; Andy Moerlein – 123 Summer St; Leslie Zelamsky – 9 Pine Hill Rd;  
Members of the public as listed below and legal counselors

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**Called to Order** at 7:00 p.m. by Chair Scheiner.

### **Approval of the Minutes of June 27, 2022**

*Ms. Bryant made a motion to approve the Minutes from the June 27, 2022 meeting, which was seconded by Mr. Schultz.*

***The Board voted unanimously in favor of the motion.***

### **Election of ZBA Chair for FY23**

Ms. Bryant nominated Mr. Scheiner for Chair, which was seconded by Mr. Culbert.

***The Board voted unanimously in favor of the nomination via roll call***

Ms. Bryant nominated Ms. Czepiga for Vice-Chair, which was seconded by Mr. Culbert.

***The Board voted unanimously in favor of the nomination via roll call***

Execution of documents: Ms. Bryant made a motion to allow the Chair to sign official paperwork on behalf of the Board, which was seconded by Mr. Culbert.

***The Board voted unanimously in favor of the nomination via roll call***

Mr. Nemser will prepare a Certificate of Record reflecting the above decision regarding execution of documents for all Board members to sign.

1

Minutes of the Zoning Board of Appeals Meeting (Approved Aug 22, 2022)  
July 25, 2022 – 7:00pm  
Virtual Meeting via Zoom  
Approved 08.22.22

EXHIBIT "A"

## EXHIBIT "A"

### Public Hearing – 9 Pine Hill Road

Public Hearing (Continued from the ZBA Meeting of June 27, 2022) - Application to consider the Special Permit request of Leslie Zelamsky to allow Home Occupation (dog training) based at her residence located at 9 Pine Hill Road, Maynard, MA 01754.

Ms. Zelamsky stated that she has been a dog trainer for about 30 years. Most of her lessons are private lessons in people's homes. She is seeking usage of total of 5 people for 5 hours a week (Mon-Sun). In addition, she is seeking temporary increased usage of the property to service her clients as she is currently in a wheelchair due to an accident.

Chair Scheiner asked if the clients would be in groups or on an individual basis. Ms. Zelamsky replied that it's usually individual private lessons. She also holds playgroups 1-2 times a week for 1 hour, which consist of owners and their dogs working on appropriate play and obedience training.

Chair Scheiner asked if the activities are held indoors or outdoors. Ms. Zelamsky replied it is a fenced in yard with a 4 ft high black chain link fence.

Ms. Bryant asked about the hours of operation and the level of barking. Ms. Zelamsky responded if a dog has a barking issue, she's working on it at their home lesson. Dogs are always with their owners, and it is a very controlled environment focused on education and training. Hours are typically 9:30a.m. - 2 p.m. , but she is not usually on the premises that whole time.

Ms. Zelamsky stated that she is a volunteer puppy raiser for Canine Companions for Independence, who train dogs for disabled person. Once a month she will hold a group training for about five puppies in training.

Mr. Schultz asked how many dogs there would be at a time of 3 months or older. Ms. Zelamsky said it would depend on the group, but in a puppy play group the dogs would be 10 weeks – 4 months. Mr. Schultz replied that the definition of a kennel under zoning by-laws is 3 or more dogs 3 months or older for training purposes. She responded that she does not board dogs or have dogs for daycare, strictly educational and training purposes.

Mr. Nemser clarified some of the terms regarding kennel and the difference between a private and commercial kennel. Service dogs do not count toward the number. Chair Scheiner pointed out that the Board may grant a special permit for operation of a private kennel. Ms. Bryant added that if the term kennel is not appropriate, wording could be included to specify "non-boarding."

Ms. Czepiga asked if there is enough off-street parking to accommodate groups of up to five people and dogs. Ms. Zelamsky responded that she has a long driveway; occasionally someone might park on the street, but it is a dead-end road.

2

Minutes of the Zoning Board of Appeals Meeting (Approved Aug 22, 2022)  
July 25, 2022 – 7:00pm  
Virtual Meeting via Zoom  
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EXHIBIT "A"

## EXHIBIT "A"

Chair Scheiner asked if anyone wanted to speak in favor of or in opposition to the applicant. Ms. Susan Purinton of 5 Pine Hill Road stated that she supports the applicant completely and hopes the Board votes in her favor.

Mr. Schultz asked about weekend hours, to which Ms. Zelamsky replied that her service dog group meets on Saturdays once a month for about 2 hours.

The Board stipulated the following conditions for special permit summarized by Mr. Nemser: Applicant will return after 1 year to apply for a new special permit; Business hours will be 9:30 a.m. – 5:00 p.m. M-F and Sat 9:30-2:00 p.m.; Maximum of 5 dogs per group session for 4 sessions a week; all parking will be in applicant's driveway.

*Mr. Culbert moved to grant the special permit with the conditions stated above. Ms. Bryant seconded the motion.*

***The Board voted unanimously in favor of the special permit.***

### **Public Hearing (Continuation) – 123 Summer Street**

To hear all persons interested in the Special Permit Application filed by Donna Dodson & Andy Moerlein, 123 Summer Street, Maynard, MA 01754. The subject property, 123 Summer Street, is located within the S-1 Zoning District. Consistent with Section 3.2.5 of the Zoning By-laws, the petitioner is requesting a Special Permit allowing a trade shop use (Artist Studio) within the subject property.

At the last meeting, Douglas Deschenes, esq. of Finneran and Nicholson PC, spoke on behalf of the applicant. The Board asked questions of the applicants and Mr. Deschenes. Since that meeting, The Board has made site visits to the property in question and observed the applicants at work.

Members of the public will have an opportunity to speak. Each speaker will be limited to 2 minutes, managed by Ms. Flanary. Board members will have the opportunity to comment on what was observed at the site visit.

Mr. Deschenes stated that after the last meeting, his clients submitted new information including an applicants' statement; memorandum on the intensity of use of the property; history of past intensity of use; listing of materials in use with safety data sheets; and the Massachusetts noise regulations.

Chair Scheiner stated that he attended one of the site visits (of which there were 2) and noted that regarding the formal studio, handheld tools cannot be heard outside, but table saws and other heavy machinery were noticeably loud.

Ms. Bryant stated that it's not just the level of noise, but the duration that is irritating to neighbors.

## EXHIBIT "A"

Mr. Schultz noted that since it was hot in the studio, they had the windows open with fans on. If you're running power tools with window open, you've limited the noise insulating properties of the building.

Mr. Culbert, who is a professional noise surveyor, provided noise readings he had taken at the site. Only two tools (Chain saw and power washer used outside) were 10 decibels or more above ambient noise, and none exceeded noise regulations for 90% of time.

Chair Scheiner asked for comments in favor of the special permit. The following people spoke in support of the applicants:

Priscilla Cotter, 2 Driscoll Ave  
Jenna Dargie, 33 Crane Ave  
Derek Sykes, 107 Summer St  
Gabriella and Lucas Sheehan, 127 Summer St (until July of last year)  
Susan Erickson, 76 Concord St  
Sally Bubier, 33 Butler Ave  
Melchor Hall - 119 Rockland Rd, Auburn (Brandeis University colleague with Ms Dodson)  
Linde Ghery, 28 McKinley St  
Greg Bokus, 16 Florida Rd  
Tracy Price, 22 Chandler St  
Linda Koskinen 129 Summer St

Those in support spoke of the applicants as good citizens and good neighbors who provide an important service to the town through their art.

Chair Scheiner asked for comments in opposition to the special permit. The following people spoke in opposition to the application:

Dennis Murphy from Hill Law speaking on behalf of Bill and Amy Shew 119 Summer St and Angeline Boisvert 125 Summer St. The Building Inspector found the use unlawful, therefore it doesn't qualify for a special permit, but needs a variance.

Keith Glidden, 1 Federal St Boston, representing Yvette Tardiff and Michael Hart. The application should be denied because the use does not qualify as a trade shop, but rather a live/work dwelling unit not allowed in the S1 residential district.

Members of the public in opposition:

Michael Hart, 119 Summer St  
Bill and Amy Shew, 115 Summer St  
Yvette Tardiff, 119 Summer St  
Luke Sweeny, 80 Rockland Ave  
Elizabeth Swayze, 131 Summer St  
Angeline Boisvert, 125 Summer St

4

Minutes of the Zoning Board of Appeals Meeting (Approved Aug 22, 2022)  
July 25, 2022 – 7:00pm  
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## EXHIBIT "A"



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Those in opposition spoke of their concerns with noise pollution, light pollution, use of toxic materials, commercial vehicles at inappropriate hours, heavy manufacturing and property use (house, barn and yard) in violation of zoning by-laws.

Chair Scheiner stated that additional information from the abutters had arrived that day or quite recently and he believed there was not enough time to continue the discussion. The Board discussed a continuance and agreed hold a special meeting in August.

Ms. Bryant made a motion to continue the hearing until August 24 at 6 p.m., seconded by Mr. Culbert.

***The Board voted unanimously in favor of the motion***

Ms. Bryant made a motion to adjourn the meeting, which was seconded by Mr. Culbert.

***The Board voted unanimously in favor of the motion***

## EXHIBIT "A"

### Maynard Zoning Board of Appeals (ZBA) Meeting and Public Hearing August 24, 2022 – 6:00 p.m. (Held remotely via Zoom due to COVID-19)

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**ZBA Board Members Present:** Paul Scheiner – *Chair*; Page Czepiga – *Vice Chair, alternate*; Leslie Bryant; John Courville (*recused*); Brad Schultz; Jerry Culbert

**Others Present:** Bill Nemser – *Planning Director*; Megan Zammuto – *Asst. Town Administrator*; Lisa Mead – *Town Counsel*; Donna Dodson and Andy Moerlein – *petitioners*; Douglas Deschenes – *Finneran and Nicholson PC (attorney for petitioner)*; Amy and Bill Shew – *direct abutters*; Dennis Murphy – *Hill Law (attorney for the Shews)*; Yvette Tardiff and Michael Hart – *direct abutters*

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**Called to Order** at 6:00 p.m. by Chair Scheiner.

**Public Hearing** (Continued from the ZBA Meeting of July 25, 2022) - To hear all persons interested in the Special Permit Application filed by Donna Dodson & Andy Moerlein, 123 Summer Street, Maynard, MA 01754. The subject property, 123 Summer Street, is located within the S-1 Zoning District. Consistent with Section 3.2.5 of the Zoning By-laws, the petitioner is requesting a Special Permit allowing a trade shop use (Artist Studio) within the subject property.

Mr. Nemser performed roll call to ensure all Board members were present.

Counsel Meade briefed the Board on the reason for the meeting, which is to consider a Special Permit application for trade shop usage within the S-1 Zoning District, subsequent to a cease-and-desist order issued by the Building Inspector.

Attorney Deschenes spoke on behalf of the petitioners, outlining the history of the case and his clients' contributions to the town.

Attorney Murphy, representing the Shews (direct abutters), disputed Attorney Deschenes remark that the neighbors' claims were unsubstantiated, pointing to the fact that a cease-and-desist order was issued. Additionally, the Building Inspector has not determined that the usage falls under the definition of a trade shop; that is the purview of the Zoning Board. The business activities proposed by the petitioners fall outside of the trade shop usage.

1

Minutes of the Zoning Board of Appeals Meeting  
August 24, 2022 – 6:00pm  
Virtual Meeting via Zoom  
Approved 09.08.22

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Keith Glidden, 1 Federal St Boston, representing Yvette Tardiff and Michael Hart (direct abutters). Attorney Glidden stated the petitioners have had substantially more time to present their case than those in opposition. The detriment to the community has not been fully weighed. The standard to be determined is the detriment to the neighborhood according to the bylaw. Most trade shops in residential areas are used as storage while most of the work is done at other sites.

Chair Scheiner invited Board members to deliberate.

Mr. Schulz shared his thoughts regarding trade shop definitions through a framework of “intent of use.”

Ms. Bryant stated that the petitioners should do as much as the work they can on their property without disturbing the neighbors. Anything that is too disturbing would have to be done at another location.

Ms. Czepiga asked for clarification about whether the Board is approving or denying a special permit for a trade shop, or whether they are to decide whether the usage meets the definition of a trade shop. Attorney Meade responded that the Board has the authority to disagree with the trade shop application. However, if they agree with it, they can move on to the special permitting process.

Chair Scheiner summarized some of the activity to date. The petitioners have been using the barn and yard area to conduct activities associated with their business for the past six years. There have been documented noise, odor, and lighting complaints. The permit application is for the barn building only to be used as a trade shop. According to the MSDS provided to the Board, a quarter of the chemicals used may produce odors. During the site visit they found that tools made noise when used outside or in the foyer of the barn. There is no sound proofing inside of the barn nor is there dust or vapor control; light from the barn may spill out from windows that run the length of the barn. Conditions for a special permit would need to address these complaints. Chair Scheiner suggested a ductless hood and a dust collector. If any hazardous chemicals are used in the residence, the same safety precautions must be used as are used in the barn. Similarly with any noise. Hours of operation should be 9 a.m. – 5 p.m. Mon-Sat.

The Board reviewed the criteria for special permit:

- Social, economic, or community needs which are served by the proposal.
- Traffic flow and safety, including parking and loading.
- Adequacy of utilities and other public services.
- Neighborhood character and social structures.

2

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- Impacts on the natural environment.
- Potential fiscal impact, including impact on town services, tax base, and employment.

The conditions will reflect the above criteria. Attorney Meade and Mr. Nemser will craft a document outlining the conditions. The Board will reconvene to vote on the document.

*Ms. Bryant made a motion to close the public hearing, which was seconded by Mr. Culbert.*

***The Board voted unanimously in favor of the motion.***

*Ms. Bryant made a motion to continue the meeting until September 8, 2022 at 7 p.m., which was seconded by Mr. Culbert.*

***The Board voted unanimously in favor of the motion.***

*Ms. Bryant made a motion to adjourn the meeting, which was seconded by Mr. Culbert.*

***The Board voted unanimously in favor of the motion.***

**Meeting Close: 7:50 p.m.**