

TOWN OF DAY PLANNING BOARD

PUBLIC HEARING – MAY 4, 2009

Members Present: David Cox, Chairman
Ted Mirczak
Eileen Brennan
Jack Vaillancourt
Dick Traeger
David Avigdor, Town Attorney

Members Absent: None

Public Present: Barry Lyons
Gary Newton
Stephen Semonick
John Sajdak
Dianne Cox

The Public Hearing regarding Majestic Mountain Marina, Application No. 09-01SPR, Tax Map #32.19-1-18 was declared open by David Cox, Chairman at 7:00 p.m.

Barry Lyons stated his residence is located next to Gary Newton (third residence east of Majestic Mountain Marina). Mr. Lyons stated he is a noise control specialist dealing with noise issues relating to residential areas. He stated the Board Members would be able to empathize with his concerns if such an enterprise were located in close proximity to their residences. His main concern is the noise which will be generated from the restaurant's patio which will reverberate off the water. He believed the only way to control the noise would be to completely enclose the patio area. Mr. Lyons stated if the patio was open, the fence would exacerbate the noise contained within that area. He further stated there are also traffic issues due to the curves in the highway in that location and a serious accident had occurred there last year. Mr. Lyons stated he supports the restaurant and marina in its current configuration but does not want any of the restaurant activity to be outside.

Stephen Semonick stated his residence was within 500 feet of the marina and he is also a patron of the restaurant. However, he stated any outdoor activity infringes upon his and his family's peace and quiet. He is also concerned about additional lighting which will be added to the patio area. When boats are waiting for service on the gas docks, there is an air horn which is used to alert the marina operators of the need for service. He believes Mr. Sajdak would be better served to alleviate this intrusion by installing an intercom system. He further stated he has no ill will toward to the existing restaurant/marina operation but has great concern regarding noise. Mr. Semonick read excerpts from a letter his mother, Marion Semonick sent to the Board (copy attached). He also felt this addition to the restaurant would lower his property values and it is a quality of life issue.

Gary Newton stated he is also an adjoining property owner and did not understand the evolution of this marina from a snack bar to restaurant. He stated he supports the restaurant but is opposed to any outdoor expansion due to noise and is concerned that the Marina will begin to host bands on the patio. He also stated he was in agreement with the statements of Mr. Lyons and Mr. Semonick.

Mr. Semonick stated he wished to express his opposition to an any approval by this Board if there are stipulations regarding bands or radios on the patio. He wished to state for the record he is opposed to the addition of the patio in any configuration with any stipulations.

Mr. Lyons stated he is able to hear a single voice on his deck from the restaurant and that a group of patrons on the patio would generate an unacceptable level of noise.

Chairman Cox stated a memo was received from Code Enforcement Officer Ken Metzler and provided a copy to those in attendance (copy attached).

Board Member Mirczak inquired if the restaurant in its current configuration with inside dining was problematic regarding noise to the adjoining neighbors. Mr. Lyons stated it was not. In good weather with the windows, there is some noise which emanates from the restaurant but is not nearly as intrusive as the noise generated from an outside patio. He stated there are currently no problems or complaints generated from activity within the restaurant. Mr. Semonick and Mr. Newton were in agreement with Mr. Lyons' statement.

Chairman Cox asked for any additional comments. There were none. He started at the closure of the Public Hearing, the regular meeting would be in session and there may be a decision at that time. He further stated the Board would take into consideration all statements made at the Public Hearing.

Motion by Dick Traeger, seconded by Board Member Vaillancourt to close the Public Hearing at 7:15 p.m. Ayes: Cox, Mirczak, Vaillancourt, Brennan, Traeger. Carried: 5-0.