

TOWN OF DAY PLANNING BOARD

PUBLIC HEARING – SEPTEMBER 6, 2007

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

Members Absent: None

Public Present: John Sajdak
Judy Traeger
Carol Vaillancourt
Dianne Cox
Linda & Brian Cutler
Michael T. Casey
Denise & Mark Gilbert
Al Ballard
Gary Newton
Barbara King
Mike & Lynn Kelleher
Pres & Sally Allen
Donald Poe
Petra & Leon Szyfman
Rollin Johnson
Gregg Crouse
Jim Hanley
Tim Rivers
Rob & Caren Snell

The Public Hearing regarding Majestic Mountain Marina, Site Plan Review, Tax Map #32.19-1-31 was declared open by David Cox, Chairman for the Planning Board at 7:05 p.m.

Chairman Cox stated this application was deemed complete at the August 6, 2007 and a Public Hearing was scheduled for Thursday, September 6, 2007. He further stated the Board would receive all public input during the Public Hearing and then return to the Planning Board agenda. Chairman Cox stated a decision may not be made at this meeting and the Board has 62 days to come to their decision.

John Sajdak described his proposal and read a statement into the record (copy attached) which was provided to all Board Members.

Jim Hanley, owner of Sacandaga Campgrounds, stated the only gas available by boat at this end of the lake is obtained at Majestic Mountain Marina and he had a real concern of the availability of that if the Marina were closed. He has observed many enjoy the services and meals provided by the Marina. He also had concerns about Mr. Sajdak abandoning the gas pumps if the snack bar were too successful and he felt transporting gas in cans was unsafe, dangerous and possibly against State Law. Mr. Hanley stated he and others enjoyed the snack bar/restaurant and would hope the entire operation would remain in business. Town Attorney Avigdor stated this Board has no jurisdiction over business operations or the details of what someone sells but has jurisdiction of the site plan review. This Board cannot decide whether he can sell gas. However, Mr. Hanley's points are well taken but this is not about the economic model but what is on the land.

Gregg Crouse, immediate adjoining property owner, 2337 North Shore Road, reviewed the previous application submitted by Mr. Sajdak in 2005 stating this was a snack bar/marine supply business selling beer and wine for off the premises consumption. Mr. Crouse stated he accepted this type of business next to his home. He stated Mr. Sajdak's liquor license expired on November 30, 2006 and in April 2007 a sign was erected stating "Majestic Mountain Restaurant". Mr. Crouse stated because there was no review of the new liquor license by the Planning Board prior to its issuance, he feels his rights have been denied. He stated his property value and others have now decreased considerably. He stated if a bar opened up next to any property, that property's value would decrease. At the same time, Mr. Crouse spoke to Ken Metzler about his inability to sit on his deck because of the glaring flood lights on the sign and was it illegal. Code Enforcement Officer Metzler stated there was a violation and he had spoken to Mr. Sajdak. Mr. Crouse stated Mr. Sajdak has disrespected the Town Board and what it stands for.

Mr. Crouse stated there was no meeting for the neighbors when the new liquor license was issued through a mistake by the Town Clerk who he was told was new and did not know the rules and regulations. He further stated he was very familiar with the State Liquor Authority regulations as he had a liquor license and that the Authority is not responsible for overseeing Towns on the implementation of those rules. Mr. Crouse stated a check of Mr. Sajdak's receipts would reveal if the liquor sales outweigh the food sales, and it would be considered a tavern. He further stated Mr. Sajdak's liability insurance would be higher for a tavern versus a restaurant. Mr. Crouse stated the Board should check the supplier's receipts and not rely on Mr. Sajdak's records.

Mr. Crouse stated he has been a resident of the Town of Day since 1948, retired and moved permanently here and that this being a quality of life issue, no homeowner would want a bar next to their home. He further stated he wished the Planning Board would put a stop to this type of business which never received permission in the first place to commence operation. He questioned what contribution this business has made to

the town or Saratoga County. He also stated Mr. Sajdak has violated the codes for lighting of signs, has allowed drinking off the premises, and has had large bonfires at the

beginning of the summer and allowed drinking at that site. Mr. Crouse stated this business has not increased the number of jobs in the area or increased tourism but has increased the liability of the town and increased the expenses of the planning board. He read from the Lake George Guide an advertisement of Majestic Mountain Marina on page 67 indicating it was a new restaurant opening in the spring of 2007 with an outside patio overlooking the lake before Mr. Sajdak had received any approval from this Board and taking this Board for granted.

Mr. Crouse stated he had no problem with Mr. Sajdak's original request in 2005 for a snack bar. He stated he felt the Board seemed to be comprised of wise men, appreciated being able to be heard by the Board and for the sake of himself and other neighbors around the marina who appreciate their peace and quiet to deny the application.

Mark Gilbert stated his family enjoyed the restaurant, it has great atmosphere and it was an asset to the community to have a restaurant within the Town of Day.

Tim Rivers, manager of Sacandaga Campgrounds, stated he felt the marina/restaurant was very beneficial to the Town. He stated this is located in a beautiful area where there is considerable traffic including motorcycles but that comes with being on a scenic route. He stated Mr. Sajdak is trying to do the best he can to run his business.

Mike Keller stated he owns property at 2151 North Shore Road and is concerned about the peace and quiet of the area but felt it is nice to have a local restaurant. He stated he felt property values have increased for all those in the Town of Day. He stated Mr. Crouse knew he was buying a piece of property next to a commercial property and has no control who may purchase it next and what they may put there.

Petra Syzfmán stated she lives two houses away from the marina/restaurant, is buffered from the noise by woods and is not bothered by it. She stated she felt that they are all neighbors and should work together on compromises to everyone's satisfaction. She also stated the marina is a positive thing for the community but could understand the restaurant's later hours may disturb the quiet and the hours of operation could be limited. She suggested a nuisance law may be in order. She hoped the restaurant would not attract a late night drinking crowd.

Donald Poe, business associate of Rick Carbone, stated he was there to support Mr. Sajdak. He stated Mr. Sajdak may have been overzealous in his advertising of the patio prior to approval. He stated the Planning Board and Town Board need to support businesses in the Town and that the Town is experiencing growth that was inevitable. Mr. Poe stated he did not feel there was a resident in the Town of Day whose property has not increased in value. He wished the Planning Board would support Mr. Sajdak.

Bud Johnson stated he has lived in this area all his life and there were five or six bars or restaurants in the area and this is the only one remaining. He stated he agreed with Mr. Poe regarding growth in the Town and while this restaurant may only employ a

few people, it is new employment. He stated if Mr. Sajdak's paperwork is all in order, he should be permitted to operate his business.

Chairman Cox read two letters into the record: an email dated August 13, 2007 from Pamela Hopkins and a letter dated September 4, 2007 from Barry Lyons and Steve McCray (copies attached).

John Sajdak stated he would like to respond to the serious allegations made during the public comment section. He stated no one is allowed to drink off the premises and what Mr. Crouse may have heard would be patrons who must smoke outside. He stated the sign facing the lake had been removed. He further stated regarding whether it is a bar or restaurant, he must supply his receipts to his insurance company and he would be happy to supply the Board with all of them.

Chairman Cox asked for any further comments from the public. There were none. Chairman Cox closed the Public Hearing at 8:15 p.m.