

Zoning Board of Appeals Meeting July 14, 2009

Those in attendance: Suzanne Smiley, Chair; Ray Purington, Bill Burnham, Tupper Brown, Alyn Hastings, Bonnie Welcome, Clerk

7:00pm

Meeting called to order

June minutes were accepted by consensus

7:10pm

Alyn Hastings formerly excused herself from the Board as an abutter to Northfield Mount Hermon School.

Public hearing opened.

The Clerk read the public hearing notice for the petition for Northfield Mount Hermon School.

Suzanne Smiley explained to Mr. Poulsen his options as we are a 5 person Board. The hearing may continue however the remaining four members would have to vote unanimously, or the hearing may be continued until a fifth person can be named as an alternate, or we can invoke the rule of necessity and the recused member can be officially involved if all parties agreed. Mr. Poulsen chose to proceed with the hearing and did not feel there was necessarily a conflict.

Mr. Poulsen explained the school's application for additional signs to direct visitors to the lower fields and boat house on Main Road. The intent is as a guide to make it less confusing for people to find their way to certain facilities around campus. The signs were designed "by persons who have expertise in signage". The Trustee Committee of Building and Grounds at NMH has approved these signs. They are consistent with the current signage on the school campus.

ZBA Sign Regulation Criteria: (a) the sign will serve the public convenience, (b) will not endanger the public safety (c) and will not be detrimental to the neighborhood in which it is proposed to be located.

The signs were determined to serve the public convenience.

The signs will not endanger the public safety. Mr. Poulsen stated police Chief Hastings and Highway Superintendent Mitch LaClaire were on site and mapped out the best location for where the signs should be located to be out of traffics way. He stated they will be more than the minimum ten feet from the road. All were in agreement safety concerns were met.

Tupper Brown voiced concern regarding the size of the signs and if they would be out of scale once erected. He asked if the size could be adjusted. Mr. Poulsen stated the design and size of the signs went through extensive school approval to be consistent with the character of the school and its surroundings in the town. He stated that the signs could possibly be adjusted if need be.

Request from the Chairwoman for any additional information needed. None needed.

7:35pm Public hearing closed.

7:40pm

Suzanne Smiley read a letter from Jim and Deborah Tomasi requesting ZBA member Tupper Brown excuse himself from the public hearing regarding The Gill Store & Tavern due to conflict of interest. (Copy of letter attached).

Tupper Brown noted for the record that he had excused himself from any proceedings regarding the Gill Store & Tavern several months ago. He formerly excused himself from this hearing.

7:45pm

Public hearing opened.

The Clerk read the public hearing notice for the petition from Alden Booth & Elisabeth Greenough.

Suzanne Smiley explained to the Applicants their options as we are a 5 person Board. The hearing may continue however the remaining four members would have to vote unanimously, or the hearing may be continued until a fifth person can be named as an alternate, or we can invoke the rule of necessity and the recused member can be officially involved if all parties agreed.

Mr. Booth wanted to clarify for the record that Tupper Brown does not have any ownership in the store. He stated that Mr. Brown, along with others, gave some money up front to help with the start up costs of the store and that it basically amounted to a 'tab' or gift certificate with store. He did not feel there was a conflict of interest in his opinion. However, the Applicants chose to proceed with the hearing with the 4 member board.

Mr. Booth read his current request of modification to existing hours and days of operation. He read his letter dated April 10, 2009 (copy attached). He read his letter dated May 11, 2009 (copy attached). He read a letter dated April 16, 2009 from Tracy Rogers, Administrative Assistant regarding complaints from Mr. & Mrs. Tomasi and reiterating the hours of operation as granted on his special permit.

Ms. Greenough stated she does personal work at the Gill Store & Tavern (GS&T) on off hours and has friends over. Mr. Booth stated there have been occasions when they would like to have private functions on days when the GS&T is currently closed. They would also like to have family and friends over on days when the GS&T is closed for events such as the basketball playoffs.

Suzanne Smiley read a letter received by the Town Clerk July 14, 2009 and signed by six Gill residents requesting the GS&T be limited to hours of operation of no more than six days per week and no later than 11:00pm.

Mrs. Tomasi read a statement regarding their position on the GS&T. (copy attached).

#### Special Permit Guidelines:

##### 1. Community and regional needs which are served by the proposal.

The Business Women of Franklin County wanted to hold a private function at the GS&T on a day the tavern was closed as it is difficult to meet when a restaurant is open to the public.

The GS&T brings new people to town. Is good exposure for the town.

A resident of Gill stated it would be nice if the GS&T could be open when there is a concert on the common so that he could enjoy a beer.

A resident of Gill stated the GS&T serves a vital need to have a community meeting place. And the owners of the Tavern have been responsive to any issues.

##### 2. Traffic flow and safety.

Mrs. Tomasi is concerned for patrons outdoor dining as she feels it is too close to the road and

someone could get hurt or hit. She also mentioned her concern for GS&T patrons using public parking spaces. when other town events are happening.

Ms. Greenough stated there were three events happening in the center of town tonight and there seemed to be enough parking for everyone.

Mr. Booth stated he has never received a complaint regarding lack of parking with the GS&T open.

Chairwoman Smiley asked Tracy Rogers, Administrative Assistant if the Town had received any complaints regarding lack of parking. Ms. Rogers answered “no. None.”

A resident of Gill stated she noticed that cars seem to be going slower now that there was more activity in town, more pedestrians, more cyclists.

An abutter to the Applicants stated there were problems with parking from other functions in town but not with the GS&T. He stated he has a late night dog walking routine every night approximately 11:00 – 11:15pm and he has found it quiet with no problems. He sits on an open porch and has no issue with noise.

Mr. Tomasi stated regarding the noise, it was not every night, only a few times. Mr. Booth said he doesn't want car noise either. He wants to keep his tenants happy.

A resident of Gill stated she enjoys the outdoor dining and wants the Town to do whatever it needs to keep the restaurant viable.

A resident who is up late every night stated the traffic has not slowed down through town.

### 3. Adequacy of Town services.

No additional burden on Town services.

8:35pm Mr. & Mrs. Tomasi left the public hearing.

### 4. Effects on neighborhood character.

A resident stated Gill is an exception with no businesses in the center of town. It is not unusual to have businesses in the center of town. The history of Gill had multiple taverns in the center of town.

A resident stated he lives 1 mile away on River Road and enjoys walking to and from the GS&T, not having to drive to get someplace to eat/drink. He enjoys having the Tavern in the center of town.

Ms. Greenough stated they have always tried working with the Tomasi's and that the previous owner of the store/tavern had the same issues with the Tomasi's.

### 5. Protection of the natural environment.

Adding days or hours has no effect.

### 6. Potential impact on employment and incomes.

Mr. Booth stated his intention is to hire additional employees. He is currently just barely breaking

even. Himself and Ms. Greenough are not even on the payroll. The ability to have private functions on off days will help to increase their income and cover the slow times. He needs the flexibility in the GS&T's hours of operation.

7. Potential impact on Town Finances.

Mr. Booth mentioned the increase in the state meals tax which he estimates will bring an additional \$2,000 - \$3,000 to the town of Gill through his establishment.

8. Potential impact on surface and ground water.

Ms. Greenough stated they just had a private water supply inspection from Mass DEP and passed.

9:00pm

Chairwoman Smiley requested any other additional comments, anyone wishing to speak.

Tracy Rogers, Administrative Assistant, stated the Selectboard is in support of the what the Applicant's have proposed and would like clarification of the GS&T's hours of operation.

A resident stated the business is evolving from the original permit and adding hours and days allows flexibility for viability.

A resident stated there are ways to address the Tomasi's concerns and still encourage the business. He suggested the ZBA or Town of Gill should offer some type of stimulus package to encourage business in Gill.

A resident of Gill for 40 years stated that Mr. Booth has been earnest in his work and he must have the flexibility to grab opportunities that crop up so that his business can succeed.

Mark Bates, a resident of River Road urges the ZBA to grant the Applicant's request.

Bill Burnham of the ZBA asked if this is an opportunity to compromise to make this work.

Mr. Booth stated he wants specific days and hours of operation with no ambiguity.

A resident stated restaurants go out of business all the time, please do everything possible to keep this business open.

Alyn Hastings of the ZBA asked Mr. Booth if his business was in jeopardy if this request was not granted. Mr. Booth replied yes. Neither he or Ms. Greenough are on the payroll and the ability to have the flexibility to hold private functions and take advantage of other opportunities is vital to his business.

A resident stated only the Tomasi's are complaining. No one who signed the letter was here to tonight.

Mr. Booth stated he has wanted to mediate with Mr. Tomasi and to avoid public hearings. But that has not happened as Mr. Tomasi complains only to the Building Inspector or Selectboard not the Applicant's.

A resident who lives up the hill stated she hears lawn mowers, concerts, church bells, dogs barking. She has no complaints with the GS&T being there.

Mr. Booth stated he is requesting hours of operation be from 7am to midnight, 7 days a week, to operate as one identity. His liquor license is for 11:00am to 11:00pm.

9:23pm

Chairwoman Smiley asked if everyone has had a chance to speak.

Ray Purington of the ZBA stated he would like Town Counsel to clarify the definition of the word 'open' and the difference between private function and family gathering. Suzanne Smiley to speak to Atty Donna MacNicol.

Chairwoman Smiley asked again if everyone has had a chance to speak. Any more questions or comments?

Chairwoman Smiley explained the next step in the hearing process. Mr. Booth requested a decision be made as soon as possible. Suzanne Smiley said the Board does work within a set timetable and a written decision will be available in the Town Hall and will be mailed to the Applicant and the abutters. She also explained the 20 day appeal process.

9:30 Public hearing closed.

ZBA discussion on the Northfield Mount Hermon special permit application. Determined the signs would serve the public convenience and public safety. The signs are attractive and not be detrimental to the neighborhood. Continued discussion regarding the size of the signs.

Tupper Brown moves to approve the Special Permit as presented. Seconded by Ray Purington. No further discussion. All in favor. Unanimous.

Suzanne Smiley – Aye, Bill Burnham – Aye, Alyn Hastings – Aye, Ray Purington – Aye, Tupper Brown – Aye.

9:45pm

ZBA discussion on the Booth/Greenough special permit application.

The ZBA is still in need of alternate members. Ray Purington has been recruiting for these open positions.

The next meeting will be Friday July 17, 2009 at 6pm.

10:00pm

Motion to adjourn by Ray Purington. Seconded by Alyn Hastings.

Meeting adjourned.