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THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF LUNENBURG
ZONING BOARD OF APPEALS

July 3, 2014

Certificate of Granting a Special Permit

Special Permit granted to Mark LaPrade, Prime Time Pub, 5 Summer Street, Lunenburg, MA 01462 under the Lunenburg Protective By-Law Section 4.6.3.1.m).

The petitioner was seeking a Special Permit to have an outdoor seating area and to hold weekly car shows in the summer months. The property, which is the subject of this case, is located at **5 Summer Street, Lunenburg, MA 01462** and known as Prime Time Pub.

The Board of Appeals of the Town of Lunenburg hereby certifies that a Special Permit has been granted pursuant to the Protective By-Laws of the Town of Lunenburg.

Board Members present: Donald F. Bowen, Chairman, Alfred Gravelle, James Besarkarski, David Blatt and Paul Doherty.

To: Mark LaPrade, Prime Time Pub, 5 Summer Street, Lunenburg, MA 01462, affecting the rights of the owner with respect to land and buildings at **5 Summer Street, Lunenburg, MA 01462**, Book 2815, Page 224, and dated February 13, 1996 as described in plans submitted with the petition. Assessors Map 115, Lot 224.

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said Special Permit, and that copies of said decision, and all plans referred to in the decision, have been filed with the Planning Board and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The owner or applicant shall pay the fee for such recording or registering.

DISCUSSION

Lisa Read the petition into the public record. The meeting being held on June 11, 2014 was a continuation from a previous meeting scheduled on May 28, 2014.

Mr. LaPrade came before the Board seeking special permit authorization to have two separate outdoor seating areas, one area on the east side of the building specifically designated for smoking and another area in the front of the building for people to enjoy a drink outdoors. The other request was to hold weekly car shows on Sundays which is an activity that has been being held on a bi-weekly basis.

JUL 03 2014

LUNENBURG TOWN
CLERK OFFICE

Mark LaPrade owner of Prime time Pub was trying to promote more business at his establishment known as Prime Time Pub. It is located on the east end of a strip mall which is set a significant distance back from Summer Street. He indicated that the front patio area will be a distance away from the property line and still maintain an open lane for traffic flow around the front, side and rear of the building. Mr. LaPrade does not own the building.

Chairman Bowen asked the Board if they would mind hearing the application two separate issues, one being the outdoor seating and the other dealing with only the car show portion of the request. A motion was made by James Besarkarski and seconded by David Blatt to hear each case on its own merit, all Board members were in agreement and voted in favor of this and proceeded with the auto show first.

The Board was concerned that people would bring their alcoholic beverages outdoors while enjoying the car display but outdoor drinking is not allowed. Mr. LaPrade assured the Board that he will have each exit monitored to prevent that from happening. Paul Doherty told Mr. LaPrade that the outdoor function could not produce more occupancy than what currently is allowed in the establishment; Mr. LaPrade indicated that his occupancy load is ninety and would be thrilled if he had that many people attend the car show display. The concern of the Board is that if there is a display area it would disrupt the other businesses in the mall. Mr. LaPrade indicated that on Sunday all of the other businesses are closed.

Chairman Bowen pointed out the fact that the car shows are being conducted already and Mr. LaPrade said that they usually only have about ten vehicles on display. Mr. LaPrade specifically requested to have the car shows on the second and fourth Sundays of the month June through September, between the hours of 4:00 P.M. and 9:00 P.M.

Alfred Gravelle asked how far the building is from Summer Street. Mr. LaPrade indicated that it is one hundred feet from the street and the show car display is thirty feet back from the front property line.

The Board was also concerned that if the car shows became more popular over the summer months then it may require a police detail. They also wanted to be sure the cars were displayed in a well-lit area. Mr. LaPrade was more than willing to hire a police detail if the crowd and associated activity increased.

The Board then went on to discuss the request for the outdoor seating. The Board felt that there was not enough information to move forward with the request. The fact that the details were lacking with regard to table size, fencing, general public safety and guidelines for smoking laws the Board felt that they could not make an informed decision. The licensing authority (The Board of Selectmen) and the Alcohol beverage Commission would also need to review the request. The Board told Mr. LaPrade that that they would allow him to withdraw the request without prejudice and allow him to reapply at a later date and the filing fee would be waived. Chairman Bowen informed the applicant that if the Board denied the request he would not be eligible to come back before the Board for two years.

Mark LaPrade then requested to withdraw the request for outdoor seating without prejudice and reapply at a later date. The Board voted unanimously to allow the applicant to withdraw without prejudice and come back before the Board at a later date and would waive the filing fee.

MOTION

After due deliberation David Blatt made a motion to grant the Special Permit for the weekly car show on the second and fourth Sundays of the month beginning in June and through the month of September. Paul Doherty seconded the motion subject to the following conditions:

JUL 03 2014

LUNENBURG TOWN
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1. The vehicles must be placed twenty (20) feet from Massachusetts Avenue.
2. The hours for the display would be 4:00 P.M. to 9:00 P.M. on the second and fourth Sundays of the month.
3. The petitioner shall conduct the business at all times in a manner so as not to be offensive to the residential abutters.
4. The granting of this special authorization shall inure to the benefit of the applicant, and shall cease in the event the business is sold or sublet to another party.
5. The permit will be subject to a periodic review by this Board or the Zoning Enforcement Officer. If the restrictions noted as part of this granting of this permit are not adhered to, or if operated in any way offensive or detrimental to the neighborhood, this Board would ask the enforcement officer to begin the procedure to rescind this permit.
6. The petitioners shall abide by all requirements of the Department of public works in the Town of Lunenburg and the State of Massachusetts with respect to ingress and egress at the property.
7. Any lighting shall not be offensive to the abutting properties.
8. If determined by the Lunenburg Police Department a police detail officer may be warranted.

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said Special Permit, and that copies of said decision, and all plans referred to in the decision, have been filed with the Planning Board and the Town Clerk.

FINDINGS

In granting a Special Permit, the Board of Appeals found that the proposed use:

- a. Will not be injurious or dangerous to the public health, or unduly hazardous because of traffic congestion, danger of fire or explosion, or other reasons.
- b. Will not have a material adverse effect on the value of land and buildings in the neighborhood or on the amenities of the neighborhood.
- c. Will be operated with reasonable regard for order and sightliness.
- d. Will not produce noise, vibration, smoke, dust, odor, heat or glare observable at the lot lines in amounts clearly detrimental to the normal use of adjacent property.

The Special Permit is subject to a periodic review by the permit granting authority (Zoning Board) or the Enforcement Officer, to insure compliance with the enumerated conditions. Non-compliance to these conditions may result in revocation of this permit.

The granting of the Special Permit shall inure to the benefit of the applicant Mark LaPrade and Prime Time Pub and shall cease in the event the business is sold or sublet to another party.

After closing the discussion, the Board acting in its capacity as the Special Permit Granting Authority, granted the Special Permit with the above members present and voting as follows with respect to the issuance of the Special Permit.

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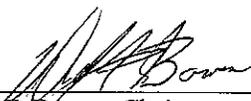
VOTE

Donald Bowen voted in favor of granting the Special Permit.
Dave Blatt voted in favor of granting the Special Permit.
Alfred Gravelle voted in favor of granting the Special Permit.
James Besarkarski voted in favor of granting the Special Permit
Paul Doherty voted in favor of granting the Special Permit

In making this determination, the Board specifically found that the granting of this Special Permit would not contravene the purpose of the Protective Bylaws or the provisions of Chapter 40A of the Massachusetts General Laws.

Voted and executed,

Lunenburg Zoning Board of Appeals
Special Permit Granting Authority

 7/3/2014

Donald F. Bowen, Chairman / Date