



## Zoning Board of Adjustment Town of Mason, NH

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Zoning Board of Adjustment minutes – Ruggiero deliberations - continuation  
- hearing date 02 November 2016  
Approved January 16, 2017

Meeting Called to Order by Chairman Fritz at 7:33 pm

Roll Call of Members present: All Voting Members:

Bob Bergeron, Phil Garside, Bill Fritz (CH), Guy Daniello (VCH), Bob Young (A),

Absent: Landon Smith (A).

No previous minutes read – Board agreed to continue the deliberations and read the unapproved minutes at a later date.

Two issues for discussion are Elements of Alcohol and Elements of Noise Control.

Bob Young presented his study on Noise Control. Stating not too much outdoor entertainment activity has been written. He stated he had done research of municipalities that ranged from 70 to 80 dBa – mostly concerning construction noise and road noise. He suggested using what the applicant presented at 75 decibels measuring from the stage straight back to property line (2 measurement points) and back with actuation of about 71 dBa as a guide. Guy questioned what 70 and 80 dBa meant – Bob explained his comparisons compared to airport noise, road construction noise, road noise in general – A weighted filters and C weighted filters standard is A weighted. His proposal is to present a cleaned version of the one he presented on 10/26/16 as a Noise Control document. Guy questioned that the BOA objective was to have some mechanism to monitor and report or impose standard of measurement and presented what his information had found - World Health Organization showed extensive research on noise and its impact. What noise level would be a nuisance, noise ordinances of Mass and NH as well as other states in US. Residential area comes out with 60 dBa that will accept that standard – WHO says anything over 60 dBa is a noise – Guy presented chart showing - Continuous noise source damage to ears discussion. Bob & Guy agreed on dBa spectrum is 60 + dBa – Guy showed study of Meadowbrook at 100 dBa at stage with no measure at property line, the people of Gilford NH are very upset because the noise is too much – BOS have started to change the ordinance for the lower - Guys point is if they had actually enhanced their level at the beginning it wouldn't be a problem now. Bob agrees loudness level cap at the source, Guy is concerned with sound at property line – Phil asked what normal speech is at what level? 60-70 as on Guys chart? Sound is single most important issue – Bill Fritz wants to look at larger scale that Mason does – such as Old Home Days, Parkers Pow Wow, outside music at the gazebo- The Town did vote to have this venue allowed, but it needs to be the same for all. Guy says those aren't the criteria we are here to look at. What is decided here is only for this piece of property and others not included. Phil discussed that the sound measures we have for an odd shaped piece of property how do you measure those on the property line. Guy says the property line – Rt 124 & Churchill Rd - obligation to achieve the points of measure levels are up to the applicants. Bob Bergeron wants to know who can enforce the numbers whatever they are, numbers that can be met. Bob Young says the applicant has agreed to not allow noise to bleed off to the sides. Bill Fritz makes a



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motion-Bob Young's Noise Control document be implemented in terms of noise control document for the amended application. Seconded by Phil. Discussion by Guy any further information – Hudson guidelines for determining sound levels read by Guy. Sound levels meter to be used, where and how. Specifically used for outside measuring. Bill Fritz reviewed the 3 Kingston ANSI standards, Hampstead's presented by Conservation Com. (Both use 60 dBas.) and now Hudson. Phil ask Guy about the sounds from Hudson race track, Bill spoke about the different ordinances from water/lake issues, Towns pick and choose what they choose for decibels. Mason does not have anything available for this. Bill said it's all over the map for noise – Bill calls for vote – guy is talking about noise being continuous – 10 hours a week 18 weeks out of the year when people like to be outside – what is the impact on the people that like to be outside. Bob Young spoke about the noise/ music levels varying with concerts, music shows, comes on goes off. Not continuous. Vote on calling the questions – Bob B y – Phil y, Bill y , Bob Y y , Guy n-4 to 1 in favor – implement this Noise Control document for the application amendment – noise document included. Voted 4 to 1 –In Favor- Guy opposed.

Bill Fritz looked at Alcohol Elements – presented his findings comparing Meadow Brooke and the King Richards Fair in an old English town in olden days as the same family style orientation compared to what the Driving Range is proposing. – Beer and wine only no glass bottles only from Tiki Bar and Dining Room. Motion to put on the floor for discussion Alcohol Control Report. Seconded by Bob Bergeron. Guy questioned why there was no mention of perimeter fence. Views as negative for family example. People walking around at night with drinking going on with children in the same area, not positive. Bill speaks about Cruz night – folks bringing in show cars are not hot roads, older folks have pet cars, show cars and are not about to let something happen to them, these folks don't do stupid – getting drunk and disorderly-restraining themselves when there are kids around its a safer environment then taking their kids into a bar or no kids left behind if parents want to have a drink. Bob B says cruz night is different than other venue. Marty's makes their money by selling beer & wines because they don't charge for cruz night. Bob Young says we capped at 1000 people, Guy says 1000 people walking around drinking is going to be trouble. People that attend outdoor concerts are there for fun and drinking. Plot plan does have a perimeter fence for drinking area. Bob Young recognizes young folks get together for fun night, concerts and drinking are different then cruz night. Described what Meadowbrooke does to prevent folks that don't want the loud vulgar language and drinking, which gets out of control, they have set aside area for none drinking. Guy asked why Selectmen put this into the recommendations. Charlie explained to control the drinking area and issues with drinking. Public venue with a lot of drinking and fun time like King Richards Fare where there is a bigger group never heard of other then good behavior, with weapons, wine and drinking going on. Ruggieros will control these issue at concerts. Concentrate drinking area is not a safer situation. Phil wants to point out if things get out of hand, the Ruggieros will lose their liquor license and Bob Young asked Police what would happen if there were problems with drunk & intoxicated people- Chief doesn't have manpower to remove a drunk person if crowds are 1000 people. Bob Young stated he doesn't have any way to control that issue. The fence



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came back into discussion for perimeter fence to control the drinking area – there is split rail fence used for plot plan drinking area defined. A1 parking lot to back of porta pottys - pond – perimeter fence provides alcohol consumption area, provides boundary area –split rail provides good non-alcohol area for kids. Sec 5 , 6 reviewed none involved crowd control – we’re discussing alcohol control - Bob Young wants to change fenced in area by batting cages – discussion of where drinking will take place- only in Tiki Bar and drinking area no satellite bars during concerts as plot plan. Regular business will be closed during concert times – separate - parking will be in driving range – modified plot plan – outside split rail and driving tee for alcohol free area. Bill: “alcohol consumption will be allowed though out the area so designated on Plot Plan as modified per agreement approved on 11/02/16” redlined on Plat. Calls to a vote: Motion at 8:45 **Alcohol Sales** will be conducted under the permission and approval of the NH Liquor Commission with a NH Liquor License for the sale of beer and wine only. **Alcohol Service** will conducted from the existing restaurant building and/or the Tiki Bar as identified on the Plot Plan. **Alcohol Consumption** will be allowed throughout the area so designated on the Plot Plan, which also specifically excludes Parking area and the area behind the stage. **The** current practice of no glass containers will be continued. **No** tailgating, coolers or outside alcoholic beverages will be allowed. Bob Young questioned the use of kegs why no draft system. Nicole has limited funds and would consider doing this later, and when do they stop selling alcohol during the day. Shut off will be? Last call will be ½ hour prior to the end of the event. Vote. Bob Y, Phil Y Bill Y Guy n, Bob Young Yi – This adds Noise Control and Alcohol Control to amended application.

Bill asked for package as presented by Nicole Ruggieros Atty MacMartin, letter modifying Measuring point amended to accept or not. If they don’t accept the BOA recommendations they will not be able to go on with this application

Bob Bergeron questioned Police pay and the Bond – stipulation asked where the bond would be kept – Selectmen or Police Chief to hold bond and be used if no pay for details. Louise Lavoie and Charlie discussed the Selectmen do not hold money. Bob Young questioned how would the monies be doled to the Police – Mason or other officers – Chief would pay the other –other parties would all be paid within 5 days or stop concerts Bill Fritz – police details hired as required will be paid within 5 days or the bond would be used. If Chief is front end filling the need or requirements he has the authority to handle the bond.

Bill reads Application for Special Exception: 1) Use, 2) Charities, 3)Season Schedule, 4) Stage (moved) 5) Maximum Capacity, 6) Crowd Control –a,b,c, 7)7e Safety and Security 8) a-Noise Control – sole responsibility of Ruggieros will be kept to 75 dBa Log to be kept on site & recorded available to Town officials. 8b – Alcohol Service 8c – Parking -8d Site plan Approval 8e – Stage , 8f – lighting, 8g – business expansion plan 8h – fencing -safety fence will be applied across the front of the pond (suggested snow fencing, rope) (perimeter fence listed on Plot Plan)



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Guy asked about pyrotechnics. Discussion about concerns of not being addressed- 8i – no concert event will include pyrotechnics from the stage or fireworks display.

Bob Young wants to discuss 1000 \$ Bond issue. Applicant gives the Bond, what if New Ipswich sends a bill – how do they get paid? If sent to Ruggieros and not get paid, they send to BOS how do they resolve? Chief has issues with past performance of being paid by Ruggieros – 6 months to a year no pay – Bond is to avoid this issue. How fast can they turn around an invoice and payment – Bob Young wants to know who will be responsible from escrow accounts – right thing to do and needs to be done, Charlie says there is nothing in their system to deal with this. If the bond is left at the end of the season, what happens? Board says it gets returned to Ruggieros. Bill has to be presented within 5 days and paid within 5 days after receipt. A new bond each year will be required. When Chief gets notice a bill not being paid, he goes to BOS and requests disbursement from the Bond. But what happens if the Bond has already been returned?

List of issues to be reviewed Plot Plan ABCD, Business Plan updated rev 1.2, parking lot Logistics how do we process the bond? Phil questions going too far for bond issue. It was left up to Selectmen to handle.

Mason Planning Ordinance – 2C – special exception as read – Standards number 1 – motion that we consider the approval of the use will be in harmony and promote the general purpose and intent of this ordinance. Discussion: This is a residential area, alcohol area, traffic. This ordinance is too much for the Town – Guy feels impact and doesn't promote welfare of neighborhood. Bob Y speaks about issues criteria used from one person to another – music verses noise. Discussion of business area verses home/residential area – the vote in June showed significant people in town supported expanding – the abutters have the right to enjoy their property but so does the business owner to use it in constructive manner. Believes with proper constraints it is manageable for growth and harmony. Vote – Phil Y, Bob B n Bill Y Guy n, Bob Y Y . Vote was 3 yas, 2 nays.

Da2 – motion that the application as presented provides compliance with health and safety we consider. Discussion: Guy feels it is a burden to the town and Mason Police Dept. and volunteer Fire Dept in case of emergency – 1000 people there would be a burden to MPD. Phil- no comment – Bob Young feels there are other resources outside of Town that the applicant has to fund. Communities that have this type of venue have adjusted and folks could plan their lives around the concerts – small amount of time involved. Bill says the Vote in June made it clear they (the Town) were in favor of this type of venue with their votes. Vote : Bob no vote Bill Y Guy n Bob Y, Phil Y.

Da3 General Agricultural Vote – 5 Y Unanimous

Da4 – Use will not prevent the use of adjacent property – Discussion of Abutters – Contryman Farm had impact on their animals, Testimony about the concerts at night, they don't have lessons during the night. Sleeping was an issue for Mr Contryman because he had to get up early to take care of his animals. He was impacted. Vote-Bob YY, Guy n Bill Y, Bob n Phil Y



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Da5 – Compliance to preamble is upheld – Read by Bill – seconded – discussion – Guy felt the rural charm of town will be lost once this is approved – We have been known for the peace and quiet of our Town. Bob B agreed and spoke about the fact that Mr Ruggiero has in the past done things his way without regard to getting approval first. Bill speaks about what alternative there is if this isn't supported – Mason has music for old home day, community concerts, active quarries that all generate noise – all comes from Master Plan – that promotes home grown business – like Barretts Farm – Do you deal with the devil you know or the one that you don't know. Bob Bergeron listed the growth from the Pig farm to Driving Range, ball batting cage to restaurant, now an outdoor night club with all the noise and associates done mostly without proper permits. Guy feels that we can't compare it to a couple of things that the town promotes. This is not a small little business that was presented last year and live music concerts of this magnitude does not fit in this town. Bob Bergeron agrees – Bob Young speaks of country charm of this town, but to expand on Guys discussion of expansion – compared to what New Ipswich did with Dollar General, wanting to move into downtown New Ipswich had negative results, so went up the road and built a brand new building. Guy says this ordinance is about controlled growth and fitting in with the community. Interpretation is individual – lot of folks in town feels it fits into town. – Vote Bob Y Y, Guy n, Bill Y Bob n, Phil Y

B2 – character uses in district- Seconded -Evaluation Purposes? Discussion – no one has issues – 5 Unanimous

B3 – Valuation & Devaluation of Abutters– Guy speaks of difficulty for folks trying to sell their homes versus folks buying the homes that might want this venue. Bob B agrees with devalued home owners. Discussion of Gun Shop in the area – due diligence has been done for them. Bob Young continued discussion – Who can say whether there would be value or devalued homes in the area because of the concerts. Bill speaks of use of the land – and his home town growth with farms all around. First thing that came into his town was MacDonalDs, Dollar General other business came in also - all help destroy rural charm. All properties and impact to the community are concerns. Guy says folks want to have peace and quiet when they want it, but BOA is telling home owners rural community is different for some. Peace and Quiet is not universal noise factor from quarry versus logging operations, to roosters crowing, some folks in town have higher level of noise than others. Vote: Phil Y, Bob n, Bill Y, Guy n, BobY Y. Vote 3 Yes-2 No

B4 – traffic on State Hiways – drinking with control, crowds come out onto the road from exits going to be a burden for the roads of 124 & Churchill Rd. Bob B feels there already is problems with the roads.. Bill feels that the roads are in good shape and can handle. Guy speaks about checking with Chief and stated he felt that the roads could handle the influx of 1000 cars coming out 3 ways. Vote: Bob B n, Phil Y, Bob Y Y, Bill Y Guy Y. Vote 4 Yes – 1 No

B5 – adequate parking – Barrett Hill Farm parking removed - Vote 5 Y – unanimous

B6 – sewage & refuse – conditions as been attached to this are met not an issue. Vote – 5 Y

B7 – use of materials no obnoxious gases – not applicable – Vote: 5Y

B8 – excessive emission of lighting – Guy read a document (ID# 2161-q) concerning 4 c of Mason Planning Ordinances and would like it added – sound pressure levels above 65 dBA is



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noise – Refers to local towns permitting sound levels maximum noise levels 65 dBa. No further discussion Vote: Phil Y Bob n Bill Y Guy n BobY Y. Vote: 3 Y -2 N

B9 – Panic access control – Guy sees access control is gone – changed and would cause a risk of panic – Bob Young discusses fence – perimeter fence is missing – no fence around the concert area. Offsite parking area Alcohol consumption area – path from upper parking lot will be lit and fence along that pathway – parking lot B – fence is still there. Vote: 5 Y - unanimous

B10 – use of the structures – no discussion – vote – 5 Y

B11 – plot area sufficient for use – discussion – Vote -5Y

B12 – use to the operator is not need church or other public assembly – no discussion – Vote 5 Y

B13- use will be adequately landscaped to preserve rural charm – discussion – not applicable – Vote 5 Y unanimous

13 Points have approval of application all amended items - Conditionally approved based on amended conditions. Conditionally approved by BOA until Planning Board does site plan review and approval. BOA must do a formal write up within 45 days with what was put together tonight. Ruggieros must submit to Planning Board.

Motion for adjournment at 10:55pm. Seconded

Next scheduled meeting will be 3<sup>rd</sup> Monday of the month Nov 21<sup>th</sup>..

Respectfully submitted  
Constance Lacasse  
11/07/2016

Edited per BOA Review on 01/16/17. Board approved minutes as corrected on January 16, 2017

Respectfully Submitted  
Constance Lacasse  
01/17/17