



*Town of Pepperell*  
**BOARD OF APPEALS**  
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**Zoning Board of Appeals Meeting Minutes of May 6, 2009**

**PRESENT:** Sherrill Rosoff, Annette McLean, Mark Walsh, Sean McCaffery, Robin Oinonen; also present, Cheryl Lutcza (ZBA Assistant).

**7:0P.M.** Chair announced that the first agenda item is a continuation of a hearing, previously held on April 15, 2009, with a subsequent Site Visit to the subject property on April 26, 2009, regarding an application submitted by Michael Blood (Scotch Pine Farm), requesting a Zoning Board of Appeals Special Permit, Non-Conforming Use Special Permit and Administrative Appeal, under Sections 3521, 9221 and 9223 of the Town of Pepperell Zoning-By-Law, which if granted, would allow the installation of a temporary tent (150-person capacity) on the subject property from May 1<sup>st</sup> to September 30<sup>th</sup>, for the purpose of hosting outdoor events such as weddings, class reunions, corporate barbeques. Subject property is located at 34 Shirley Street, Pepperell, MA, as shown on Assessor's Map 34 as Parcel 35.

Clerk read legal notice into the record.

Chair announced that Judith and Daniel Lillis, 97 River Road, have submitted a letter of opposition (Exhibit V), dated April 29, 2009, to the Board. Clerk read letter into the record.

Chair gave an overview of the Board's Site Visit to the subject property on April 26, 2009, as follows:

- Board walked around tent area and Scotch Pine Farm.
- Board drove around the rest of the property to observe what they could hear while the music was being played from within the tent.

Chair invited Applicant, Michael Blood, to address the audience. Mr. Blood made the following points:

- Felt that they covered everything at the site inspection.
- Asked if Board had any questions for him.
- Letter from the Lillis' is disturbing, as they live pretty far away on River road, and he was shocked they could hear the music from that far away.
- Parking lot was paved on Monday, May 4, 2009, and 48 out of 61 parking spots have been paved. Elm Street driveway is already paved. Shirley Street driveway is unpaved. Sign informs public to please use the Elm Street entrance. Cannot lock Shirley Street entrance as it needs to remain open for emergency access

Chair inquired if there was anyone in the audience who would like to speak in favor of, or opposition to the application:

- Milt Starr, 46 Shirley Street, explained that he attended the site visit and was in support of the proposed application.
- Jeff Sauer, 75 Mt. Lebanon Street, read a letter of support (Exhibit Z) from his wife, Anne Sauer, into the record. Mr. Sauer said that he was also in support of the proposed application.
- Jonathan Kinney, 28 Cranberry Street, spoke in favor of the proposed application and the Applicant.
- Paul McBrearty, 15 Tarbell Street, spoke in support of the proposed application and the Applicant.
- Justin Zink, 20 Herget Drive, spoke in support of the proposed application and the Applicant.
- Janet Cramb, 17 Park Street, spoke in support of the proposed application and the Applicant.
- Abutter, Paula Jamison, 40 Shirley Street, explained that she is a direct abutter and is still concerned with the music and noise. She thinks that it would be a great business, but would like to see the noise or music kept inside. Mrs. Jamison stated that they are the people who will have to live with the decision.

Chairman explained that Town Counsel, Attorney Edward Richardson, was unable to attend this evening's continuation hearing, Chair gave a recap of the points of Town Counsel had previously made as follows:

- ZBA needs to find whether the proposed application is more detrimental to the surrounding area.
- Any decision by the ZBA will not dispose of the issues pertaining to the Board of Health or the Planning Board.
- Liquor permit will be under the exclusive jurisdiction of the Board of Selectmen.
- ZBA can limit hours.
- Planning Board deals with driveway and parking issues.

Attorney Christine Morrissey, legal counsel for the Applicant, addressed the Board as follows:

- Hopes that paving will relieve concerns regarding dust.
- Applicant would accept, as a condition, that he would have a parking attendant at events with more than 50 people.
- Disc Jockey said that it is inconceivable that he would play at that loud of a level, as played during the site visit, at a function.
- Duration of events would be four to six hours (this could be a condition).
- Hours of operation could be between 10:00a.m. and 10:00p.m.
- Current restaurant hours of operation are: Tuesday through Friday from 11:00a.m. to 2:00p.m.; Wednesday through Friday, from 5:00p.m. to 9:00p.m.; Saturday and Sunday, from 9:00a.m. to 1:00p.m.
- There have been no complaints of noise to the Police Department.
- Outdoor events in the tent could be held from May 1<sup>st</sup> to September 30<sup>th</sup>.
- Applicant does not want to create noise pollution to disturb any of the neighbors.

Chair inquired as to what type of lighting would be used on the tent. Applicant, Michael Blood, responded that there would be globe or string lighting at the top or peak of the tent, and that the only other lighting would be existing lighting on pole and two lights on the carriage house that are on timers. The lights that are on timers have been reset to go off at 10:00p.m. Driveway lamp posts coming off of Elm Street go off at approximately 1:00a.m.

Mark Walsh spoke regarding the noise at the top of the hill and asked if the Applicant considered putting up more of a barrier if noise is an issue. Applicant responded that he would be open to that in the future, and that the noise test at the Site Visit had the music up to the highest level and that would not be the level the music would be played at a function.

Applicant asked if there was an “Indian Summer” would he be able to extend the dates of operation beyond September 30<sup>th</sup>? Applicant asked if they could move the end date until October 15<sup>th</sup>? Chair responded that this would be something to discuss.

Abutter, Eric Jamison, 40 Shirley Street, addressed the Board with the following concerns:

- Concerned about noise.
- Has concern that this could be a “shifting” business and that it could continue to expand. Explained that they abut the property and will be impacted by this.
- Concerned with dust issues from Elm Street driveway, which is unpaved. Another abutter has a pool and is concerned about dust.
- Light has been staying on until 10:30p.m., not 10:00p.m.

Board Member, Mark Walsh, motioned to close the record. Annette McLean seconds. All concur.

Discussion ensued among Board members.

Mark Walsh motioned to grant relief requested, a Non-Conforming Use Special Permit, to allow the installation of a temporary tent (150-person capacity) on the subject property from May 1<sup>st</sup> to October 15<sup>th</sup>, for the purpose of hosting outdoor events such as weddings, class reunions, corporate barbeques on the subject property. Annette McLean seconds the motion. All concur.

Board deliberated findings and conditions.

**Old and New Business:**

Upon the motion of Annette McLean, and seconded by Mark Walsh, all concurred to approve the ZBA Meeting Minutes of April 15, 2009.

Meeting Adjourned at 8:55P.M.

ZBA Minutes of May 6, 2009 filed with Town Clerk: June 25, 2009

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**Cheryl Lutcza**  
**Assistant, Zoning Board of Appeals**

cc: Town Clerk  
Building Inspector  
ZBA Minutes file  
ZBA Members  
ZBA Application File(s)