

MINUTES OF THE ZONING BOARD OF ADJUSTMENT MEETING
January 13, 2010
7:00 PM

Meeting called to order by Chair Electra Alessio, at 7:00 PM. Present: Ray Donald, Jay Alberts, Peter Coffin (not voting), John Whittier, Daryl Branch and Tammy Bakie.

Ms. Alessio stated the updates to zoning ordinance would be voted on at the town meeting in March. Ms. Alessio stated the Town Hall would be accepting filings for the two open ZBA positions January 19-28. Ms. Alessio stated she planned to seek reelection. Mr. Donald made a motion to accept the October 2010 minutes Mr. Alberts seconded all in favor. Ms. Alessio abstained. Ms. Alessio also stated she had received an unsigned letter dated December 23, 2010 in opposition to the Sad Café that would not be included in the record, because she did not believe any unsigned anonymous letters should be part of the record, all letters either in opposition or in favor should be signed.

Christine & James Cover 12 Parsons Way, Tax Map U12 Lot 20

Ms. Christine Cover stated they had just recently discovered the boundary lines were different than what her father believed them to be. Ms. Cover stated she had purchased the property from her father and had requested and received a building permit two years ago. Ms. Cover stated that her father, neighbors and the town thought the boundary was at the top of the hill and when a neighbor had their property surveyed to build a fence the discrepancy was found. Ms. Cover stated they needed a variance from the 20 foot right of way that was sold to the lady on the other side of the hill. Ms. Cover stated she would like to continue building her happy room. Mr. James Cover stated he had lived at there for 25 years and had no problems with what he considered the border. Ms. Alessio stated she also is a member of Ridgewood Association and many of the members have had boundary issues. Ms. Alessio shared the property map.

Ms. Cover stated the abutter's house is on the other side of the hill and doesn't interfere with her life. Mr. Cover added that the neighbor couldn't see the property. Ms. Cover asked for a few feet variance to continue the room that had been started. Ms. Alessio asked if the Cover's had been served with a cease and desist. Ms. Cover stated no they just wanted to do the right thing and legally with the town. Mr. Alberts asked for copies of the building permits. Ms. Cover stated she had

a building permit signed by Robert Steward dated October 23, 2007 for a cement pad, and had been issued a total of 3 building permits. Ms. Alessio asked if all three permits were for the same addition. Ms. Cover stated yes the first was for a concrete slab the second for walls and the third to go up in the air. Mr. Branch stated the 2007 permit was for a ground level slab 12X16 and footings for a future project of a three season room at first floor level. Mr. Coffin stated the 2009 permit was in the property file for construction of block wall and framing for addition of three season room. Ms. Alessio asked if the permits expire. Mr. Coffin stated the work needed to start within 6 months and be completed in 2 years. Mr. Donald stated the 2007 permit is the same footprint as the 2009 which is only going up not out. Mr. Donald stated he had spoken to the building inspector and it was a case of not being aware of where the boundary line was.

Ms. Alessio asked if there was anyone that wanted to speak in favor or opposition to the variance. Mr. Alberts stated it was up to the building inspector to know what the boundary is and the applicant has invested money and the project is half done. Mr. Alberts stated he had visited the property and did not see it as a detriment. Mr. Coffin asked if the board had received any communication from abutters. Ms. Alessio stated no and all abutters were duly noticed. Ms. Alessio read the five criteria and a vote was taken. All five criteria were passed unanimously, Mr. Donald made a motion to grant the variance, Mr. Whittier seconded all in favor. Ms. Alessio explained the thirty day waiting period.

Steppingstone Music Opportunities, Inc. Tax Map R-19, Lot 10

Mr. Dick Gerrish, Vice Chair distributed the Sad Café's response to the five criteria. Mr. Walter Mailhot, Chairman Board of Directors, stated they were excited about finding the property although the rural residential boundary goes through the property, and not in a good place to allow to open up the Sad Cafe. Mr. Mailhot stated the Sad Café had a great rapport with the Sanborn School District and would be an asset to the Town of Kingston. Mr. Mailhot stated they were a family friendly theater that helps fight drugs and alcohol abuse in the school systems and raised over 1.1 million dollars. Mr. Mailhot stated they do rent space to Southern Rockingham Coalition that incorporates both Sanborn and Timberlane School district. Mr. Mailhot stated teen centers come and go but the Sad Café is still here 13 years later and have a great relationship with their

neighbors and the police. Ms. Alessio stated the Sad Café's character was not the issue tonight.

Ms. Roclyn Porter stated she was a resident of Kingston and the director of Family Mediation and Juvenile Services, and that in the last three years police had only been called three times for health welfare and safety issues. Ms. Porter stated the rest of the calls were for building checks, door open or an alarm. Mr. Phil Gamache, board of directors Sad Café, stated that based on the spirit of the ordinance, the property is dually zoned, ½ rural residential and ½ single family, and what is currently on the property is not a residential house, but a church, which doesn't fall into the zoning today. Mr. Gamache stated he didn't think the use changed that much from a church to the Sad Café, although they were not a religious organization but were for the benefit of the town and the betterment of the surrounding area, which is how he would describe a church. Mr. Joe Leddy, Bean Group, the real estate representing the buyer, if variance is not granted it would be a hardship for the seller; anyone would have to change use for the property, it would be better for the community not to have vacant. Ms. Alessio asked if anyone would like to speak in opposition to the request.

Mr. Donald asked what the hours of operation would be, the number of users, would there be outside activities and the number of pedestrians and cars expected. Mr. Mailhot stated it would depend on the night and what genre of music, but 80 kids was average, and most kids don't come alone. Mr. Mailhot stated Friday and Saturday they would be open 7-11 and they don't allow kids to come in and out of parking lot and parade around, but adults 18 and over can go out to smoke. Mr. Mailhot stated they have an after school program that ends at six and bus picks up kids. Mr. Branch asked what the maximum occupancy of the building was and if it was comparable to what was currently in Plaistow. Mr. Gerrish stated it was 215 people at current location in a 3,000 square foot room. Ms. Alessio asked about the size of the church. Mr. Mailhot stated it was 4,000 square feet but they would be putting in tables and a kitchen that would change the occupancy rate.

Ms. Alessio stated if the variance were approved the Sad Café would have many hoops to go thru and comply with regulations and may have to come before the ZBA again. Mr. Alberts stated the septic system is shared with the home at the end of New Boston, and the owner is not pleased, Mr. Alberts asked if that had been addressed. Mr. Gerrish stated that concern would be addressed in site plan, which the variance would allow them to pursue. Mr. Alberts stated the Planning Board had gone through all lots that are split and the lot is proposed in warrant article to be

single family residential, and will remain that way until the election. Ms. Alessio stated the application was denied because it was a commercial business in single family residential, and the ZBA would not determine if it was rural residential or single family. Ms. Alessio stated we would go on the assumption that it was single family, and they are a commercial business that wishes to locate in a single family residential zone.

Mr. Coffin asked if the business was non profit or not for profit. Mr. Gerrish stated it was a 501c3 non-profit. Ms. Alessio asked about the neighbors and if they had met with them as planned. Mr. Gerrish stated he had made an attempt and had extended invitation to meet with the abutter, who did not have the time to meet. Mr. Donald stated that the board was familiar with the building and that it was not going to be used as a single family home, and the septic was not this board's issue. Mr. Donald stated the Sad Cafés reputation speaks for itself and there is no opposition from the audience. Mr. Coffin asked if the board had received any communication other than the anonymous letter. Ms. Alessio stated no. Mr. Mailhot stated the only abutter with an issue was the abutter who shared the septic. Mr. Coffin asked about the noise. Mr. Mailhot stated they have closer abutters in Plaistow and never have complaints. Mr. Coffin asked about sound proofing. Mr. Gerrish stated fire approved acoustic material was put on over 50% of walls to insure sound coming from building will be with-in acceptable limits. Mr. Gerrish stated they do not have a site plan on property; Planning Board agreed to meet and gave denial, so that they could come before ZBA, if variance is granted they will expend funds to create the site plan. Ms. Alessio stated the Planning Board has designated the property as single family, whether the variance is granted or not. Mr. Alberts concurred.

Mr. Alberts asked where the numbers for police calls came from. Ms. Porter stated her husband works for the Plaistow Police Department, who pulled the stats. Mr. Gerrish stated he has been associated with the Sad Café for 12 or 13 years and works 25 hours a week as a volunteer and there has been only 2 incidences where had to involve police, rescue has been called but no fights in 14 years, because they set boundaries down low.

Ms. Alessio read the five criteria for a use variance. All criteria passed, but not unanimously. Motion to approve, Mr. Alberts seconded. Mr. Branch asked for clarification regarding zoning. Ms. Alessio stated granting, will allow them to locate in single family. Vote taken and variance granted. Ms. Alessio explained 30 day waiting period.

Ms. Alessio adjourned the meeting @ 8:13

Respectfully submitted,

Tammy L. Bakie
Secretary
Zoning Board of Adjustment

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