

Case: 1-16
Date Filed: 5 April 2018

RECORD OF PROCEEDINGS

I, Lisa C. Morrison, assistant to the Zoning Board of Appeals of the town of Edgartown, hereby certify that the following is a detailed record of proceedings pertaining to the request of Zared Shai d.b.a. as M.V. Taco Shack LLC (a.k.a. Backyard Taco MV) to modify their special permit to allow the sale of after-hours food out of a connecting window with the adjacent premises, Smooth Moves. The properties are located at 32 Winter Street, Units 4 and 5 (Assr. Map 20D Lots 347.114 and 347.115). Both units are leased to the Shai family and owned by Dorothea A. Morgan, Trs.

1. On 5 April 2018 the application, a true copy of which is marked "A," was presented to the Town Clerk.
2. In addition, an advertisement, a true copy of which is marked "B," was published in the Vineyard Gazette on April 6th and April 13th 2018.
3. Notice of the hearing, a copy of which is marked "C," was mailed, postage prepaid, to the petitioners; the abutters - owners of land adjacent to the subject property within 300 feet of the property lines - all as they appear on the most recent, applicable, certified tax list; and to all the proper town boards and departments.

On Wednesday, 25 April 2018 at 7:30 p.m. the public hearing was held in the Town Hall. The following board members were sitting for this hearing: Richard Knight- acting Chairman, Carol Grant, Nancy Whipple, John Magnuson, and Ted Rosbeck - alternate.

Mr. Shai made a brief presentation. He said he was hoping to provide late night food to go between the hours of 1 a.m. and 2 a.m. - after the bars close. He said that because the taco shop has a liquor license, it needs to close its doors by 1 a.m. The idea would be to keep the kitchen open in the taco shop and serve the food to customers through a connecting window in the smoothie shop. Mr. Shai said he was hoping to do it as an experiment.

Mr. Shai said that he has read the letters in the file from Mr. Poole, the health agent, and from abutters, Shawn & Erica Brennan. He said he has no desire to cause any problems in the neighborhood.

Board members had received copies of the Poole letter in advance of the hearing [see file]. Mr. Poole had a number of concerns and saw several problems implementing the proposal.

The letter from M/M Brennan was read. The Brennans began their letter by saying that they thought the taco shop was a great addition to the town, but added that they were not in favor of allowing the expanded hours. The Brennans own a home at 45 Winter Street and have four children. They were concerned that the late hours would encourage patrons to hang out in the street, and would contribute to a noise and litter problem. They pointed out that no bathrooms would be provided for use by the patrons and they thought that the expanded hours may overburden the town's police and fire departments.

Attorney Ellen Kaplan was present for the Brennans. She said she was not sure that cooking or selling food between the hours of 1 a.m. and 2 a.m. was permitted by the A.B.C. in an establishment with a liquor license. She said she did not believe that this was a neighborhood that should be subject to such an experiment.

Mr. Knight then closed the public portion of the hearing for discussion by the board.

Ms. Whipple said she thought that Mr. Shai was doing a stellar job, but that this was opening Pandora's Box.

Mr. Magnuson made a motion to deny the request to modify the special permit. He said that he thought the proposal would encourage people who hang around town at a late hour to hang around even later. Although the property is in the B-I District, there are several residences in the immediate area. He agreed with M/M Brennan that the expanded hours could contribute to a noise and litter problem. He said that Mr. Shai did not seem to have his heart set on the proposal, so he didn't feel too bad about denying it.

Ms. Grant seconded the motion and voted to deny the proposal for the same reasons.

Ms. Whipple, Mr. Rosbeck, and Mr. Knight also voted to grant the special permit for the same reasons.

Respectfully submitted,

Lisa C. Morrison, Assistant