

Case: #20-2015

Date Filed: 12 May 2015

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 New Moon Property LLC (Jeffrey & Joyce Sudikoff) d.b.a. "Behind the Bookstore" to amend a special permit (Case # 15-14) and change the description of the premises from a *coffee shop with outdoor seating and the service of beer, wine, and cordials* to a **restaurant with outdoor service of food** (Section 11.12) **and alcohol**. All conditions placed on the original special permit are to remain. The property is located at 44 Main Street, Assr. Pcl. 20D-196 & 191.1 in the B-I Business District.

1. On the 12 May 2015 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 May 15th and May 22nd 2014.
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, the 3rd June 2015 at 7:00 p.m. the public hearing was held in the Town Hall. The following board members were sitting for this hearing: Richard Knight– acting chairman, Nancy Whipple, Carol Grant, Robin Bray – alternate, and Nancy Kelly - alternate.

Sean Murphy, attorney for the applicants, gave a brief history of the project. In March 2013, the applicants received a special permit for a coffee shop with outdoor seating. In 2014 the applicants received seasonal liquor license from the Selectmen and amended their special permit to include the sale of beer, wine, and cordials for consumption on the premises. The applicants are coming in now to amend the special permit to include the outside *service* of food and alcohol, as opposed to just an outdoor eating area.

Mr. Murphy explained that although the concept of the coffee shop has evolved, its purpose has always been to enhance the bookstore experience. The applicants have found that there is no business in the coffee shop after 5 p.m., although the bookstore is open until 10 p.m. most nights. The applicants would like to shift the evening business model to make it more attractive for patrons. After 5 p.m., the coffee shop would morph into a restaurant with outdoor food and alcohol service. The restaurant would stop serving at 10 p.m. and all patrons will be off the premises by 11 p.m. – a condition of the original permit. The restaurant would not operate on rainy days, as there is no indoor seating. The applicants are also planning to utilize a portable raw bar, as shown on the plan. Food will be cooked inside, on the premises. A small kitchen addition was granted an exemption in March of 2015 and a shift from electric to gas was made, and the appropriate venting system installed.

There were no letters from town boards or departments or from any abutters.

Geno Courtney, an abutter, was concerned about the venting system – which exhausts under the windows of an adjacent building that he owns.

Ms. Grant asked if alcohol would be served without food. Mr. Murphy said that the applicants' license currently permits the sale of alcohol without food. He said that the only difference is that, in the evenings, drinks will be brought out to patrons.

Ms. Grant asked what will prevent it from becoming a bar. Mr. Knight commented that the applicants have a track record and that the changes in operation have been gradual. He noted that the area is fenced in and the seating is located well away from Main Street. He said he did not see the same problems with this operation and were likely at the South Water Street location, which was reviewed some years' back. Mr. Knight said he believed the potential venting problems could be addressed by conditioning the permit.

Ms. Kelly asked if there would be take-out available at dinner. Mr. Murphy said that he imagined so. He also noted that people are not allowed to leave the premises with alcohol. He commented that having personnel outside would also help with the policing of the area.

Ms. Whipple made a motion to grant the amendment to the special permit, saying that she believed the project to be in harmony with the general purpose and intent of the bylaw. She said she believed the site was appropriate and placed the following condition on the permit: If the board receives complaints about excessive odor or noise from the ventilation system - which are not adequately addressed by the applicant - then the board may reconvene and mandate that a satisfactory solution be worked out between the abutter and the applicant.

Ms. Grant seconded the motion and voted to grant the amendment for the same reasons and with the same condition.

Ms. Kelly voted to grant the amendment for the same reasons and with the same

conditions.

Ms. Bray voted to grant the amendment for the same reasons and with the same condition.

Mr. Knight voted to grant the amendment for the same reasons and with the same conditions.

Respectfully submitted,

Lisa C. Morrison, Assistant