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THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF LUNENBURG
ZONING BOARD OF APPEALS

October 5, 2015

CERTIFICATE OF GRANTING OF SPECIAL PERMIT

A Special Permit is hereby granted to **Alan Wernick, 48 Holden Road, Shirley, MA 01464**, for the property located at 1 Main Street, Lunenburg, MA 01462, under the Lunenburg Protective Zoning By-Law Section Sections 4.6.3.1.j. and 6.5.1.4. The property is owned by Lunenburg Village Realty Inc., Box 681, Concord, MA 01742. The petitioner was seeking a Special Permit for an outside dining and an increase in the sign allotment for the proposed business.

The Board of Appeals of the Town of Lunenburg hereby certifies that a Special Permit has been granted pursuant to the Protective Zoning By-Law of the Town of Lunenburg.

Board Members present: Raymond Beal, Chairman, Donald F. Bowen Alfred Gravelle, James Besarkarski and Paul Doherty.

Special Permit is issued to **Alan Wernick, 48 Holden Road, Shirley, MA 01464**, affecting the rights of the owner with respect to land and buildings at **1 Main Street, Lunenburg, MA 01462**, Book 5317, Page 103, and dated 6/25/04, as described in plans submitted with the petition. Assessors Map 71/95.

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said Special Permit, and that copies of said decision, and all plans referred to in the decision, have been filed with the Planning Board and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The owner or applicant shall pay the fee for such recording or registering.

DISCUSSION

Chairman Beal opened the public hearing and Lisa Normandin, Board Secretary, read the petition. Mr. Wernick was before the Board to ask for an outside dining area at the the new restaurant he is renovating at 1 Main Street, Lunenburg (formerly The Village Grille). Mr. Wernick was also seeking approval for an increase in signs at the property.

Mr. Wernick explained in his request that the 22'x28' outdoor dining area would provide a park like atmosphere with a wrought iron fence enclosing the area with perennial flowers, potted plants and a quaint aesthetically pleasing area for diners to enjoy. Mr. Wernick has addressed all of the safety concerns with the police and fire departments regarding traffic, emergency exits and fire suppression systems. Mr. Wernick felt that colorful umbrellas would be pleasing to passing traffic and have a casual appearance that would enhance the surrounding business establishments.

Mr. Wernick introduced his son Adam Wernick to the Board and indicated that Adam would be his partner in business.

Alfred Gravelle asked the petitioner what his plans were for outdoor lighting and what type of foundation would be provided for the patio area. Mr. Wernick explained that he is planning to incorporate edge lighting to create a soft ambiance and planned to install a stamped concrete foundation with concrete filled bulwarks placed every six feet with wrought iron fencing in-between. Mr. Gravelle asked if the current business would remain on Massachusetts Avenue. Mr. Wernick owns Center Pizza/Convenience located at 1353 Massachusetts Avenue and plans to keep that business strictly for a convenience items and premade sandwiches, he would eliminate the full kitchen at that location.

Several of the Board members felt that the application was lacking with regard to a parking plan as required in Section 6.1.1.5. Raymond Beal indicated that the request if approved would require the applicant to submit an application for development plan review to the Planning Board. At that time the Planning Board would assure that the parking requirements are met with regard to the occupancy load of the building. Mr. Wernick explained that most of the area businesses are only open during the day and that there is ample room for parking in front of the building behind the building and along Main Street.

Donald Bowen remarked that this business would bring life to the center of Town and that he was in favor of the petition. Mr. Wernick said that he has removed several shrubs and bushes to create a more appealing area and was not proposing the outdoor project until the spring of 2016.

James Besarkarski felt that the submitted patio plan was not clear. Mr. Wernick explained that he has a large area to work with on that side of the property and could lengthen the patio if the Board felt that that would impede any line of sight issues. The Board felt that they could approve the concept and during the Development Plan Review process the detailed data would be addressed.

Raymond Beal asked Mr. Wernick how he would control loud customers and disturbances with regard to the abutters in the residential neighborhood. Mr. Wernick said that he was in the night club business at one time and did not want that type of atmosphere at this establishment, unruly guests would be asked to leave.

MOTION

After due deliberation James Besarkarski made a motion to approve the Special Permit for seasonal outdoor dining. Alfred Gravelle seconded the motion. All members voted in favor of approving the Special Permit.

MOTION

After due deliberation James Besarkarski made a motion to approve the request for Special Permit for the increase in signage as outlined in the proposed Lunenburg Village District by-law. Paul Doherty seconded the motion.

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FINDINGS

In granting a Special Permit, the Board of Appeals found that the proposed use:

- a. Will not be injurious or dangerous to the public health, or unduly hazardous because of traffic congestion, danger of fire or explosion, or other reasons.
- b. Will not have a material adverse effect on the value of land and buildings in the neighborhood or on the amenities of the neighborhood.
- c. Will be operated with reasonable regard for order and sightliness, if an open use.
- d. Will not produce noise, vibration, smoke, dust, odor, heat or glare observable at the lot lines in amounts clearly detrimental to the normal use of adjacent property.

The Special authorization is granted with the contingency that Alan Wernick comply with all licenses, regulations, statutes and ordinances of any and all applicable state, local and federal board or agencies with jurisdiction over the premises.

The Special Permit is subject to a periodic review by the permit granting authority (Zoning Board) or the Enforcement Officer, to insure compliance with the enumerated conditions. Non-compliance to these conditions may result in revocation of this permit.

After closing the discussion, the Board acting in its capacity as the Special Permit Granting Authority, granted the Special Permit with the above members present and voting as follows with respect to the issuance of the Special Permit.

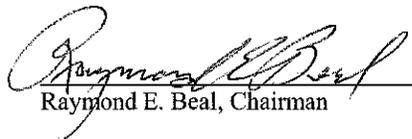
VOTE

- Raymond Beal voted in favor of granting the Special Permit.
- Donald Bowen voted in favor of granting the Special Permit.
- Alfred Gravelle voted in favor of granting the Special Permit.
- Paul Doherty voted in favor of granting the Special Permit.
- James Besarkarski voted in favor of granting the Special Permit.

In making this determination, the Board specifically found that the granting of this Special Permit would not contravene the purpose of the Protective Bylaws or the provisions of Chapter 40A of the Massachusetts General Laws.

Voted and executed

Lunenburg Zoning Board of Appeals
Special Permit Granting Authority

 10/8/15
Raymond E. Beal, Chairman Date

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