

**Town of Danby  
Board of Zoning Appeals  
Oasis Hearing Minutes  
July 28, 2010**

**Members Present:**

Al Becker  
Gary Bortz  
Christine Decker  
Nancy Medsker  
Alan Wagner

**Others Present:**

Susan Beeners            Code Enforcement Officer

**Members of the Public:**

Rebecca Reeves, Joel Gagnon, Pam Kaminsky, James Reagan, Barry Craddock, Linda Bryan, Nicky Greene, Heidi Bennett, Randy Ingell

**The Kaminsky/Oasis Public Hearing was reconvened at 7:07pm**

S. Beeners read the following public notice:

*PUBLIC HEARING to consider a Request for variance of Section 701- Limitation of Uses within 200 feet of a Residence Zone; and Section 1001- Nonconforming Uses of Land, of the Town of Danby Zoning Ordinance, in order to hold an event with amplified music in the Courtyard at Oasis Dance Club, Bar, and Restaurant on September 8, 2010 from 5:00 p.m. to 8:00 p.m. The property is located at 1230 Danby Road, Tax Parcel 2.-1-8.1. Pamela Kaminsky, Owner/Applicant.*

Al Wagner asked Oasis owner Pam Kaminsky to quickly represent the variance request and steps taken to address neighbor complaints.

Kaminsky said that since the past hearings she has taken steps to address neighbor concerns. Action has been taken in three areas. She has applied crushed concrete and magnesium/calcium chloride to the driveway to decrease dust. The parking lot light has been adjusted to point to the back door. Subsequent to more discussion with Ingell, she will make further adjustment including a shield on the light. Kaminsky has asked her staff to increase monitoring of the parking lot.

Beeners then read two letters, from Heidi Bennett and Nick Greene, that had been received for the July 20 hearing. These letters are in opposition to the requested variance. In addition, Beeners received a phone call from an Oasis patron (not a Danby resident) who is in favor of the one-time variance. Rich Anderson believes that the discussion should focus on the specific event and noted that the new owners are very supportive of community events.

Alan Wagner opened the hearing to public comment and stressed that comments should be limited to new information. There were verbal responses from neighbors Heidi Bennett and her roommate Nick Greene. Bennett stressed that indoor music has been such an annoyance that outdoor music is out of the question for her. If there must be outdoor events, Bennett requested a sound barrier so that she would not have to listen to the music. Greene agreed that indoor music levels are so loud that it already sounds like outdoor music.

Barry Craddock commented about the history of parking lot dust control at this business. The problem has existed since the 1990s when a gravel driveway was installed. Prior to 1990, the car park was blacktop. At that time, the driveway entrance from Route 96B was changed over to Comfort Road. Over the years, the car park size has increased and the gravel driveway is no longer suitable for the amount of traffic going to the Club. Craddock recommends oil and stone be applied in the parking lot.

Craddock also recommended that air conditioning be installed, so doors and windows could be

closed to control noise leakage. Once these measures are taken, Craddock would agree with a variance for the Oasis Club to hold even two or three outside events a year. Until these measures are taken, Craddock doesn't think there should be any variance.

Linda Bryan complained that during the past weekend she could easily hear indoor music from her patio, which is a distance away from the Club. She affirmed that when things are brought to compliance with the neighbors she would be willing to see occasional outside events, but not until then.

Randy Ingell voiced his ongoing concern about dust. He expressed surprise that Kaminsky has not read the zoning ordinance related to this property. He sees only minimal efforts being made to address neighbor concerns, but stated that concerns about dust, lights, and noise remain.

He stated that, in discussions with Kaminsky, he agreed that if she took care of the dust and light problems he would agree to a one time variance for outside music. At this time, he does not think that she has complied. Ingell agrees with Craddock that there should be a history of compliance before any favors are granted. Ingell cited a contrasting relationship with the Legion and neighbors in which complaints were addressed in a satisfactory manner.

James Reagan said that he is hesitant to go ahead with outside events at this time. The music has been extremely loud. He stated that he would like to see air conditioning installed at the Club so that the place could be closed up in the summertime. With that adjustment, a few, infrequent events would not be a problem for him.

Pam Kaminsky thanked Randy for his comments. She says that she is trying hard to address these concerns. Kaminsky apologized to Bennett for any phone call when she was hung up on. She repeated that she has not had police officers on her premises since she owned the Club in 2009. She talked with an officer at the State Police, and there have been no complaints since May 2009.

Code Enforcement Officer Beeners reported that zoning related to the property was provided to Kaminsky at the time of sale.

## **Public Hearing Closed at 7:32**

### **BZA Discussion:**

Nancy Medsker noted that some progress seemed to have been made. She asked some questions of the neighbors regarding whether the loudness was a seasonal problem. Bennett responded that while it was mostly in the summertime, there were also problems in winter—particularly with low end bass thumping. Kaminsky agreed that air conditioning would be best for staff, patrons, and neighbors but stated that she could not afford \$20,000 for the installation at this time. Bennett requested that the bass be turned down, especially on some types of music.

Al Becker asked what type of music was planned for this event in question. Kaminsky replied that she is looking at a jazz quartet; e.g., music that will not interfere with networking conversation for the Chamber of Commerce. Craddock stated that the issue is not this event, but the constant nuisance.

Al Wagner stated his opinion that neighborhood impact is one of the things the BZA must consider. The track record expressed by the neighbors is pertinent. Becker noted that the appeal is for a specific event. Becker pointed out that neighbor impact is after 8pm, which is not part of this appeal, and noted that Kaminsky is trying to address concerns. Ingell concurred with this.

Bortz asked the neighbors whether things have improved with the new owner. They replied that noise levels have gotten worse since there is more live music being presented at the Club. Some demands had been taken care of in the past week. Bortz noted that this new owner seems inclined to reach out and that she will need a variance for every request for outside events. If this variance is granted, it does not set a precedence. Each variance request is dealt with as a separate issue.

Kaminsky noted that some of her neighbors have no objection to Oasis activities, and reminded the BZA of the petition she had circulated.

Medsker asked Kaminsky about her business plan as regards relationships with the neighbors. Kaminsky replied that she had planned on installing air conditioning but was not able to afford this at the same time as other improvements. Kaminsky also said that she intends to talk with DJs and sound techs

about turning the bass down to a tolerable level on weekends and lowering levels at other hours.

Wagner asked whether the BZA has the latitude to grant the variance with certain conditions. Beeners said, yes the BZA has that ability. Beeners also stated that dust control and light adjustment were part of the prior Town Board decision in 2005, and these conditions have not been fully met. The noise is the overriding thing, but indoor noise had not previously been raised as a problem. The current complaints are a baseline against which future issues will be measured.

Following further discussion of possible conditions being attached to granting a variance, Becker pointed out that the PBo cannot dictate policy to expend someone else's money, such as the cost of \$20,000 for air conditioning installation.

Decker expressed her opinion that the event in question is as benign as may be. If the concern is neighborhood issues then there are other needs. Noise issues can be subjective.

Beeners described various ways the BZA could make provisions for monitoring progress and mitigating neighbor concerns, such as sound adjustment on live music. The BZA could require subsequent meetings or a report of progress in two or three months. There was a general discussion regarding segregating the general issues from the specific request. The track record of how the Oasis Club relates to its neighbors, particularly in regards sound levels and patron behaviors outside the bar, will have an impact on any future variance request. Complaints or reports monitoring progress on these issues should be sent to the Code Enforcement Office.

#### **Motion to Grant Variance**

The Board of Zoning Appeals of the Town of Danby grants the variance as requested.

Moved by Gary Bortz, second by Allen Becker, the motion passed

Allen Becker	AYE
Gary Bortz	AYE
Christine Decker	AYE
Nancy Medsker	AYE
Alan Wagner	NAY

The BZA meeting was adjourned at 8:40 pm.

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Pamela S Goddard, BZA Secretary

These minutes compiled from S. Beeners' notes and the sound recording of the meeting.