

MARSHFIELD DEVELOPMENT REVIEW BOARD

Meeting Minutes • Thursday, January 14, 2010 • 7:00 p.m., Old School House Common

DRAFT

Timothy Roberts, approval to re-open the Village Store

DRB members present: Paul Brierre, Dina Bookmyer-Baker, Bruce Hayden, Chuck Bohn, and Vince Feeney. Also present: Bob Light, Zoning Administrator; Timothy, Tyler, Valarie, and Ciara Roberts, the Applicants; and Gregory McNaughton, attorney for the Applicants. Others present, including Laura Johnson, Selectboard member, and Will Walters, reporting for *The Hardwick Gazette*, did not participate in the hearing and did not sign in.

At 7:18 p.m., DRB Chair, Paul Brierre, opened the hearing to review the Roberts' proposal to re-open the Village Store. Paul introduced the DRB members and summarized the review procedure. All parties intending to testify were sworn in. Timothy Roberts testified that he had notified the abutters and posted the property in accordance with the hearing notice procedures.

In the course of the hearing, the DRB members reviewed the application, which included the following:

- an application for site plan review, received December 2, 2009
- a site map, prepared by Dwight Baker dated June 24, 1991, showing the structures currently on the property
- a letter to the Town of Marshfield DRB from attorney Gregory W. McNaughton, representing Timothy, Valarie, Ciara, and Tyler Roberts, requesting a hearing before the DRB to grant a one-year extension pursuant to Section 280 (1)(a)(iii).

In December 2010 the Roberts' acquired the Marshfield Village General Store building, located at 1425 Route 2, which had been closed due to the previous owners' bankruptcy and foreclosure. The Roberts' intend to re-open the general store and occupy the apartment on the 2nd floor.

Mr. McNaughton summarized the events, including legal issues and bankruptcy that affected the former owners and preceded the Roberts' acquiring the property. He also offered evidence toward establishing the last date of business operations. Testimony on behalf of the Applicant included the following: The former owners discontinued daily operations of the store at the end of August 2008. The retail business continued to be open on approximately two days per week, and sporadic retail sales were conducted through Christmas 2008. The store was officially open

to business through December 31, 2008. On January 1, 2009 the former owners officially closed the business.

In April 2009 the former owners petitioned for bankruptcy. In November 2009 their bank held a non-disclosure public sale in which the Roberts' participated. The Roberts' were informed that their offer was accepted. A 30-day holding period was required to complete the sale. The Roberts' closed the sale on December 10, 2009.

On December 2, 2009 Mr. McNaughton sent a letter to the DRB to request a one-year extension of the discontinuance of a nonconforming use under Section 280 (1)(iii) in the Marshfield Zoning Regulations. The next available date for the DRB was January 14, 2010. From a historical perspective, this is one of the longest-running general stores, conducting business there since 1852. The Applicants would like to reopen the store and conduct retail sales similar to before.

The Applicants elaborated on their products, services, and renovation plans. The Applicants understand that they would need permits for any expansion.

A typo was noted in the letter from attorney McNaughton: the December 25 date reference should be 2008 (not 2009).

Mr. Light explained that to his knowledge the commercial discontinuance was greater than one year, and therefore, to restart the business would require a site plan and conditional use review. His testimony included the following: Tim Roberts called him shortly after the auction on November 10, 2009. Bob told Tim that to his knowledge, the commercial discontinuance was greater than one year and would require a site plan and conditional use review. Bob sent a letter to Tim on November 17, 2009, which included the definition of non-conforming use (Bob read the letter). Nobody called Bob. Bob got a letter from Mr. McNaughton dated December 2, 2009. Bob called attorney McNaughton. A week or two later Mr. McNaughton returned Bob's call and Bob relayed his understanding of the last day of business. Bob questioned why the Applicant did not apply for site plan and conditional use review.

The board asked questions and took testimony and evidence to answer some of the following questions: on what date was business discontinued, what were the circumstances for the discontinuance, on what date was the store transferred to the Roberts', were the circumstances for the discontinuance in the Roberts' control, are the Roberts' entitled to an

extension of the discontinuance date, and are the Roberts' entitled to continue operating the store as a non conforming use.

A board member had purchased something from the store in late December. Mr. Light stated that if in fact the last date of business was the end of December 2008, then he has no issue.

There being no further testimony or questions, at 7:55 p.m. Paul made a motion to close testimony, which was seconded by Vince. All were in favor (5-0), and testimony was closed. The DRB will deliberate in closed session and issue a written decision within 45 days.

At 8:00 the DRB went into closed session to deliberate the application.

At 8:20 the DRB came out of deliberative session. Paul made a motion to grant the request for a one-year extension of the abandonment period, pursuant to Section 280(1)(a)(iii). The motion was seconded by Sandy. Discussion included establishing the date in which to re-establish the retail use as December 25, 2010. All were in favor. The motion carried, 5-0.

At 8:30 p.m. Bruce moved to adjourn the DRB meeting. Paul seconded. All were in favor. The meeting was adjourned.

Respectfully submitted,
Dina Bookmyer-Baker