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In memory of Philip Davis
1908 - 1998

In memory of James E. Mitchell
1941 - 2016

August 24, 2021

Chip Stevens, Code Enforcement Office, and
Town of Readfield Planning Board

RE: SSMH's response to letter by Matt Nazar, April 14, 2021

Dear Chip,

My client responds to Matt Nazar's letter as follows:

1. SSMH's application was submitted with good faith in full accordance with Readfield Land Use Ordinances. Contrary to Mr. Nazar's allusions that my office, my paralegal or my client's landlord are targeting him personally through these legal actions, SSMH's application for an occupancy permit is the only relevant issue before the Board.
2. Mr. Nazar used a good portion of his letter to raise unrelated legal actions taken by my paralegal from several years ago which were unknown to my client and which have absolutely no relevance and no bearing on SSMH's permit application with the Town. There was no other reason to raise these issues except to try to disparage my office and my client. To that end, Mr. Nazar's comments should be entirely ignored.
3. Mr. Nazar also cites his concern about "potential retaliation for exercising [his] legal right to provide [his] testimony for the Board's consideration." Oddly, his concern is misplaced because SSMH has done nothing to target Mr. Nazar or his family during this application process. Prior relations between my client's landlord and Mr. Nazar – whether personal or legal in nature – have no bearing on or relevance to SSMH's application.

4. It is reasonable for SSMH's landlord, Robert Bittar, to promote SSMH's proposed use of the property so SSMH can have a place to hold their activities and Mr. Bittar can reap rental benefits after he helps SSMH to put the building into service.

Even though SSMH is the applicant, Mr. Bittar is still the legal owner of the property and must approve and assist SSMH with making all structural and topographical changes to the building and land so their permit is granted after the Board's conditions are met.

5. SSMH has mentioned the possibility of activities like singing and dancing. These activities are in alignment with other community centers. Music, dancing and singing are obvious activities for members of an organization such as SSMH. Meetings will be held with members to plan future activities and goals.

The activities will fulfill SSMH's Mission Statement:

"We support inclusivity, equality, community and the fundamental rights of all human beings. Readfield's **Safe Space - Meeting House [SSMH]** will provide a space for LGBTQ+ community to build professional and social connections in the community. Our effort intends to establish a "meet-up Space". It will be a "Safe" setting in which to share cultural interests, resources, and opportunities with people who share similar interests and concerns.

"SSMH will model its community activity on civic outreach activities used by The Readfield Union Meeting House. The SSMH "meeting house" outreach will be dedicated to the arts as a primary link for community communication. It is integrated within the Readfield community.

"Our society is beset with uncertainty and anxiety. Readfield's SSMH is dedicated to providing community resources needed to help support LGBTQ+ community in Readfield. We advocate for laws and policies that will protect all people's rights and everyone's dignity. We work for a world where all people can enjoy their rights fully."

If the Planning Board feels that any of these activities are not appropriate, my client would be happy to discuss the concerns about them with the Board.

6. SSMH has fully complied with the Town's LUO permit process, submitted every requested document and answered every question asked to the best of their ability and knowledge. Mr. Bittar's previous dealings with the Town should have no bearing on my client's application.

7. Regarding Mr. Nazar's concern about use within the resource protection shoreland zone, the LUO provides for Rural Residential occupancy which includes a community center or club. If the resource protection shoreland zoning's more restrictive provision is controlling, then it would essentially prohibit even single family residential use of the property, thereby nullifying any occupancy or use of the property entirely. As a matter of fact, single family homes are permitted within the Resource Protection with PB and CEO approval.

8. Mr. Nazar asked, **"If the use is not allowed in a portion of the building labelled in the application as "Meeting Room 1", how does the Board anticipate the town will realistically enforce that prohibition if the use is allowed in the rest of the building?"** The answer lies within the Town's Land Use Ordinance which does not specifically outline acceptable uses for a community center within the Rural Residential zone. In order for this question to be answered, the Town needs to provide a comprehensive list of accepted, and prohibited, uses for a community center in a Rural Residential zone.

9. Because the Town's RR LUO does not specifically or comprehensively outline what activities are permitted and prohibited by a community center, it is difficult for SSMH to determine which activities they are going to provide. Until they know what activities are prohibited, then cannot decide which activities to offer.

10. Regarding the issues of parking and winter access:

(a) Your recent email said that Mr. Allen of DOT has said "that the Maine DOT represented by him and his regional office staff uniformly have not written a letter or verbally stated an official ME DOT position on this request", because Maine state statute speaks for itself; and, most recently, that "it is the town's responsibility and choice as to allow or not allow parking on Route 41 in Readfield," which must comply with Maine state law.

(b) Mr. Allen is an engineer, not a legal authority. So he is not qualified to provide a legal interpretation of section 2068 and must rely on the written law.

(c) As I explained in my prior email with my legal opinion on section 2068, the law is clear about the criteria for prohibited parking, none of which appear to apply to SSMH.

(d) Mr. Nazar is correct that the Planning Board has no legal authority to prohibit parking along a public street. 29-A MRSA § 2068

does not grant any authority to a Town or other government agency to prohibit or restrict the stopping, standing or parking of any vehicles on a public way – that authority is reserved only to Department of Transportation. See 29-A MRSA § 2068(C).

(e) 29-A MRSA § 2069 grants authority to a law enforcement officer, Department of Transportation or the Maine Turnpike Authority to remove a vehicle from a location in violation of section 2068. It does not grant any Town that authority.

11. SSMH's application clearly described that their winter and cold-weather activities will be much fewer than those held during the warmer months. Their application also explained that their activities during the warmer months would happen only a few times a week and only for a few hours at a time.

12. Because SSMH's winter-time and cold-weather activities will be much fewer, the risk of mud and unsafe pedestrian/vehicle interactions on an icy road are far less probable than Mr. Nazar is alleging. SSMH's activities will be scheduled in accordance with the unpredictable weather patterns that Maine is famous for having, and will cancel or reschedule events due to weather-related, or parking-related obstacles.

13. It's a common occurrence in Maine for people to have to park their cars at the top of their dirt driveway in the springtime because of the muddy nature of our topography; delaying or rescheduling SSMH events for the same reason would be acceptable.

14. Mr. Nazar says "a significant uptick in use will require taxpayers to do repairs to the road probably a couple of times a year." But SSMH's application clearly says they do not expect to have a 'significant uptick' in use, because their activities are not going to be held daily, nor all day long. Their activities are expected to include only 3 or 4 days per week, and only 3 or 4 hours per event, with attendance limited to 35 +/- cars, at most. It's not possible to predict what effect that traffic is going to have on Mill Stream Road.

15. Regarding Mr. Nazar's arguments about noises and decibel level testing, his arguments are premature as the types of activities have not yet been definitively planned. SSMH cannot provide the Town with a comprehensive list of proposed activities until the Town provides SSMH with a comprehensive list of prohibited activities.

15. As shown in SSMH's exhibits regarding the sound level testing when music inside the barn was played at 95 decibels, noises outside of the barn registered at 50-60 decibels which is no louder than normal

conversation or a hairdryer, as shown in Mr. Nazar's exhibits. Mr. Marston testified that the ambient noises caused by traffic on Route 17 was louder than, and drowned out, noises caused by the music played on the day of his testing.

In closing, I would suggest that the most significant obstacle during this process is the Town's lack of a comprehensive list of permitted and prohibited activities by a community center or club within the Rural Residential zone.

In that regard, SSMH is willing and able to work with the Town to determine practical and reasonable activities and uses for their members that will not increase town expenses, the need for town services or interfere with neighbors' right to peaceful enjoyment of their homes.

Sincerely yours,



Jed Davis, Esq.

Cc: Alex Twarog