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MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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CITY CLERK, SALEM, MASS.

October 29th, 2014

## Decision

### City of Salem Board of Appeals

**Petition of IAN HUNTER, requesting a Special Permit per Sec. 3.0 *Table of Principal and Accessory Use Regulations* of the Salem Zoning Ordinance, in order to allow a brewery, distillery or winery with a tasting room located at 75 CANAL STREET (Map 33 Lot 201) (B4 Zoning District).**

A public hearing on the above Petition was opened on October 15th, 2014 pursuant to M.G.L. Ch. 40A, § 11. The hearing was closed on that date with the following Salem Board of Appeals members present: Ms. Curran (Chair), Mr. Dionne, Mr. Watkins, Mr. Duffy, and Mr. Copelas.

The Petitioner seeks a Special Permit from the provisions of Section 3.0 *Table of Principal and Accessory Use Regulations* of the Salem Zoning Ordinance.

#### Statements of fact:

1. In the petition date-stamped September 24th, 2014, the Petitioner requested a Special Permit per Section 3.0 *Table of Principal and Accessory Use Regulations* of the Salem Zoning Ordinance, in order to allow a brewery, distillery or winery with a tasting room.
2. The Petitioner, Mr. Ian Hunter and co-founder Mr. Brenneman, presented the petition.
3. The proposed brewery, distillery, winery is approximately 6,000 square feet with a 800 square foot tasting room. The proposed tasting room is no larger than 33% of the main building's square footage.
4. The requested relief, if granted, would allow the Petitioner to operate a brewery, distillery or winery with a tasting room.
5. The distillery will provide tours, sell commercial goods branded by the brewery, distillery, winery and sell beverages by the bottle to consumers for consumption off the brewery premises during designated public hours.
6. The tasting room will only provide samples at no charge and will be limited in size as set forth in M.G.L. c. 138. All staff will have a TIPs certification (Training and Intervention Procedures for Servers of Alcohol).
7. No additional parking is needed because it is an existing building.
8. The permitted hours of operation for the tasting room are Friday and Saturday from 12-5pm or 1-6pm with the possibility of expanding hours into Thursday and Sunday seasonally dependent on Planning Board approval.
9. Deliveries to the facility will be made during regular business hours of operation Monday through Friday from 8am-4pm. The applicant will not have deliveries during drop-off and pick-up times of the daycare facility located within 75 Canal Street.
10. At the public hearing, three (3) members of the public spoke in opposition to the petition. Two (2) members of the public spoke in favor of the petition.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petition, including the application narrative and plans, makes the following **findings**:

### **Findings**

The proposal is consistent with the definition of a tasting room Section 10.0 of the City of Salem Zoning Ordinance.

1. The distillery and tasting room will have minimal impact on parking, traffic flow and safety as this is a small business with few deliveries and limited public hours of operation.
2. There are many uses that could be allowed as of right in this building that would have a greater impact on parking. There will be three full-time employees that will be on-site during regular non-public business hours and the public will be limited to visiting the distillery to Friday and Saturday afternoons from 12-5pm or 1-6pm.
3. The distillery and tasting room will not impact the adequacy of utilities and other public services will not be changed.
4. The impact on the environment including drainage will not be impacted.
5. The neighborhood character will remain the same as there are no significant changes proposed to the exterior of the building.
6. The potential fiscal impact on the City's tax base is positive.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted four (4) in favor (Ms. Curran, Mr. Watkins, Mr. Copelas and Mr. Duffy) and one (1) opposed (Mr. Dionne), to approve the requested Special permit to allow the addition of a tasting room to an existing brewery, distillery, winery subject to the following **terms, conditions and safeguards**:

### **Standard Conditions:**

1. The Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. A Certificate of Inspection is to be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

### **Special Conditions:**

1. Hours of operation for the public to visit the distillery and tasting room will be limited to Friday and Saturday 12-5pm OR 1-6pm with the possibility of expanding hours dependent upon Board of Appeals approval.

2. Deliveries to the facility will be made during regular business hours of operation Monday through Friday from 8am-4pm and deliveries will be made on Canal Street only. The applicant will not have deliveries during regular drop-off and pick-up times of the daycare facility located within 75 Canal Street.
3. The Petitioner will conduct research on ongoing City plans for Canal Street improvements to understand whether there is a planned or existing cross-walk from in the vicinity to Canal Street and Gardner Street and request the possibility of a cross-walk be added at this location if there is not one proposed already.
4. The Petitioner will obtain all State and Federal permits including, but not limited to, the Commonwealth of Massachusetts issued Farmer Series License.
5. All retail sales at 75 Canal Street will be limited to the public hours of operation from Friday and Saturday from 12-5pm OR 1-6pm with the possibility of expanding hours dependent upon Planning Board approval. No retail sales from this location may take place outside of approved public hours of operation.

  

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Rebecca Curran, Chair  
Board of Appeals

A COPY OF THIS DECISION HAS BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK

*Appeal from this decision, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A, and shall be filed within 20 days of filing of this decision in the office of the City Clerk. Pursuant to the Massachusetts General Laws Chapter 40A, Section 11, the Variance or Special Permit granted herein shall not take effect until a copy of the decision bearing the certificate of the City Clerk has been filed with the Essex South Registry of Deeds.*