

Wolfeboro Zoning Board of Adjustment
Regular Meeting
December 7, 2015

Minutes

RECEIVED AND RECORDED
December 21, 2015 M
Book No. _____ Page No. _____
151 Patricia M. Waterman
WOLFEBORO, N.H. TOWN CLERK

Members Present: Mike Hodder, Chairman, Fred Tedeschi, Vice-Chairman
Alan Harding, Clerk, Hank Why, Member, Suzanne Ryan, Member, Christine Franson, Alternate,
Sarah Silk, Alternate, and Susan Raser, Alternate

Members Absent: David Senecal, Alternate (excused)

Staff Present: Rob Houseman, Director of Planning & Zoning and Robin Kingston,
Administrative Assistant

Chairman Hodder called this meeting to order at 7:00 PM in the Wolfeboro Public Library Meeting Room. A quorum was present. The Conduct of the Meeting and the Rules of Procedures for the Public Hearing and the requirements for a Variance were reviewed.

Appointments:

TM# 71-4

Case # 11-V-15

Applicant: Graham Combes

Variance

Agent: Kurt DeVlyder, Esq.

Public Hearing for a Variance from Article 175, Section 125 of the Wolfeboro Planning & Zoning Ordinance for the operation of a 20-barrel brewery with occasional tours or events related thereto. This property is located at 82 Haines Hill Road. A site visit was held at approximately 4:15 prior to the hearing. Minutes of the site visit were submitted and are part of the file.

The applicant is seeking a Variance to Section 175-125 in order to allow the conversion of an existing garage/outbuilding to a 20-barrel brewery as licensed under RSA178:12:A
The proposal includes:

A proposed driveway access off NH Rte. 28/Center Street (NH DOT Driveway permit will be required as part of the Site Plan Review Permit process if the variance is granted)

Hours of operation are defined as daytime hours

Production is proposed to be 4,000 (approx.) barrels annually.

Monthly deliveries of bulk supplies by tractor-trailer.

Twice-weekly shipments of finished products in refrigerated box truck.

Employment is proposed to be 3 on site employees and 2 traveling sales representatives

Onsite sales of "growlers" (large sealed bottles of beer, 32-64 oz.) is proposed to be Monday through Saturday 3-5 PM.

Bimonthly brewery tours on Saturday at 1:00 PM.

The applicant also mentions a future use of an "Amish Barn" for banquets and receptions. This shall require a separate variance application since this application is limited the proposed brewery.

The property is located in the Residential/Agricultural District

Attorney DeVlyder addressed the Board and reviewed the application, additional information and plans as submitted.

Graham Combes, 82 Haines Hill Road also addressed the Board. Mike Hodder had asked if there will be operation of the brew house and deliveries on the weekend and Mr. Combes responded there would be no deliveries or brewing operations on the weekends. Brewery tours and growler fillings would be held on Saturday and last about 20 minutes and depending on interest there could be tours over the weekend between 1-2 pm. Waste water is treated and is rich in methane and is an anaerobic digester. They would not be dumping untreated waste water into the septic. The treatment process creates a fertilizer and the methane captured within the digester and can be used for electricity or fuel. The treated hops will be sold to local farms as feed. There appears to be no potential hazard to having the storage tank of the methane gas. In the spring he would be looking to grow his own hops on site. The field has been tilled. This would produce a small amount of hops and he would look to make 1-2 batches per year of state grown beers.

Alan Harding asked about the proposed use as reasonable and noted in the application it states "will require cleanup of property". Mr. Combes clarified the proposal does not require any improvements to the property. Alan Harding asked how many barrels can be produced or what the brewery would be licensed for. RSA 178.12 regulates over 15,000, the manner in which it can be sold. This brewery operates and would be licensed under RSA 178.12A a micro-brewery; less than 15,000 barrels and is renewed yearly for a fee.

Suzanne Ryan asked about the water taken from the property and if there is enough capacity in the well and asked if the septic system capacity is known.

Graham Combes responded he has had the well tested and there is enough capacity. The septic has not been reviewed.

Rob Houseman noted the septic is built for 300 gallons per day and is a secondary system on the property, specific to this building.

Suzanne Ryan noted she is having trouble because he is not raising all the hops to produce all of his beer.

Hank Why asked about tours and events.

Attorney DeVlyder explained if there were a special tour or event, there would need to be a special event permit issued by the Town.

Fred Tedeschi noted this is a residential farming area, largely residential and many with large barns with some surviving agricultural operations.

Sarah Silk noted in the agricultural district there is raising of livestock and other agricultural activities and many operations do not have big barns.

Chris Franson noted there are two farms on Haines Hill Road as well as a campground and the remainder are residential.

Fred Tedeschi noted there would be a change in the neighborhood as manufacturing would be going on.

Kurt DeVlyder stated it will not change the essential character of the neighborhood. This would be self-contained manufacturing. Haines Hill Farm has retail sales between 2pm and 6pm and sells produce and related items chicken and pigs and cattle. Mustard Seed Farm has unlimited hours of operation and sales.

Chris Franson noted Haines Hill Road does not get a lot of traffic. The water source and impact on aquifer are a concern and questioned the impact to surrounding properties and wells.

Kurt DeVlyder responded if this were an agricultural operation they could draw unlimited amounts of water from their wells. Here the water draw is a known quantity.

Mike Hodder noted the property is downslope from surrounding the properties.

Chris Franson asked about odor emitted in the neighborhood.

Graham Combes responded the neighbors should not be aware of any odor, the grain will be fed to local livestock and the only thing going into the septic is the finished treated waste water. He currently operates in downtown and there has never been a complaint relating to odor.

Access from Route 28 was discussed.

Attorney DeVlyder noted the next step would be for the NH DOT approval on Route 28.

Mike Hodder suggested if approved all access for the operation should be from Route 28.

Sarah Silk asked about the Wolfeboro Campground and if they have trailers coming and going. She also noted in the red building at the beginning of the road was an old woodshop.

Suzanne Ryan asked for the history of the barn.

Rob Houseman noted the hobby barn was permitted by a building permit with no commercial use. The access off of Route 28 was a Class 6 road which was deeded over to a previous owner. The septic system capacity is for 300 gallons a day the output for operation as calculated would be 166 gallons per day.

Gail Antonucci, Haines Hill Road and closest abutting neighbor stated she has no problem with the proposed operation.

No person spoke against the proposal and the Public Hearing was closed.

Board Deliberations:

Suzanne Ryan commented she felt the application did not meet the five criteria.

Alan Harding noted this is like a giant cow and dairy farm where a product is produced and he considers this like an agricultural process such as a dairy farm. This is a good application and good presentation.

Mike Hodder commented this operation is enclosed and has no odor; other uses for the property without approval could be a cattle ranch with slaughter house. This use is less intense in comparison to other uses that would not need to go before the Board. The special characteristics of the property are looked at in totality rather than individually. What use could all of those buildings be put to? This is a much less intensive use and strictly in one existing building.

Sarah Silk commented the building is appropriate for the use although it could be used for other things. The property has unique qualities to it and especially the location with frontage on two roads, one being the State numbered highway which could allow for access for the operation via Route 28 and keep the commercial traffic off of Haines Hill Road.

Hank Why commented he felt this application meets all of the five criteria.

It was moved by Suzanne Ryan and seconded by Fred Tedeschi to deny the application as it does not meet the following:

1. Contrary to public interest given trailer traffic off of Route 28.

2. Spirit of the ordinance is not observed as this would be creep into the Agricultural District.
3. There would be Substantial Justice to the individual but not in the best interest of the neighborhood.
4. Values of surrounding properties are subjective to where they will be diminished and this does deteriorate the neighborhood
5. There is another reasonable use so this criterion is not available and there is no hardship to the property.

Suzanne Ryan and Fred Tedeschi voted in favor. Mike Hodder, Alan Hardina and Hank Why voted in opposition. The motion failed.

It was moved by Mike Hodder and seconded by Fred Tedeschi to approve Case # 11-V-15 TM 71-4, Graham Combes to establish a craft brewery on property of Tax Map # 72-4 with the following conditions:

1. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
2. The application, as submitted to the ZBA, may not satisfy the submittal requirements for a Site Plan Review.
3. The Notice of Decision shall be recorded at the Carroll County Registry of Deeds and the applicant shall pay all recording fees.
4. This Variance shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause.
5. There will be no access to the brewery from Haines Hill Road save in the event of an on-site emergency.
6. All commercial access to the brewery is to be via Route 28 only and to occur between the hours of 9 am and 5 pm only, Monday through Friday.
7. There is to be no commercial signage on Haines Hill Road whatsoever.
8. The vegetative buffer currently between the brewery and Haines Hill Road is to be maintained.
9. A vegetative buffer between Route 28, the brewery and parking area is to be maintained at, at least 75'.
10. Operations for growler filling and sales Monday through Friday 3pm through 5pm.

The Board discussed the conditions and growler sale and tour hours. Chairman Hodder allowed input from the applicant.

The applicant requested Monday through Saturday noon through 5 pm as many customers are not able to come Monday through Friday.

Susan Raser noted it is a special type of person looking to refill the growler.

Alan Harding suggested a copy of the license be on file.

Mike Hodder amended condition#10 to read "Operations for growler filling and sales Monday through Saturday, 12 pm through 5 pm"

Fred Tedeschi seconded the amendment.

Alan Harding, Hank Why, Mike Hoddere and Fred Tedeschi voted in favor of the amendment and motion. Suzanne Ryan voted in opposition. The Amendment and Motion Passed.

Work Session

Appeal of Administration Decision – There is very little guidance on Appeals of Administrative Decisions other than the obvious and the job is to decide whether the officer decided correctly, you cannot interpret an ordinance the way you think it should be.

Mike Hodder asked the Board to look it over the package enclosed in the Boards packet and keep on file and refer to it when another Appeal of Administrative Decision is submitted to the Board.

Mike Hodder was thanked for his efforts in compiling the information.

Consideration of Minutes:

2 November 2015

Sarah Silk questioned the lack of detail in the minutes

Mike Hodder explained he has not been detailed in the findings of fact prior to the motions.

Staff explained there was a recording malfunction during the meeting and there was no back up from Community TV. The minutes were created based on notes.

Page 1 – add "Alternate" next to Susan Raser's name

Add the word "excused" after David Senecal listed absent

2nd paragraph from the bottom, 3rd sentence – change aloe to allow

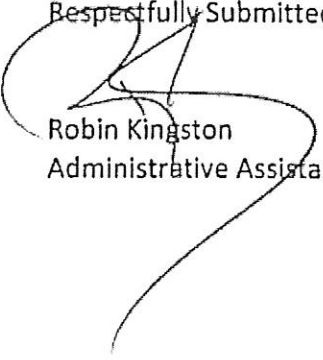
Page 2 - first line, second criteria should be changed to criterion
First line of motion – add the word approve after to and before Special
2nd paragraph from the bottom – change the last sentence to read “The original lumber yard
use was by variance and was formally known as Kimball Lumber.

Page 3 – 3rd paragraph second sentence – change residence to residents
6th paragraph add of Key Day Builders after James Keating’s name
Change the rest of the first sentence to read “activities on site would be relative to storing
equipment, on occasion a heavy truck to pick up the Lull and moving it to a job site, painting of
some materials for some jobs as well as woodworking and milling for particular jobs.

It was moved by Hank Why and seconded by Mike Hodder to approved the minutes of
November 2, 2015 as amended. All members voted in favor. The motion passed.

There being no further business, this meeting was adjourned at 8:47 pm.

Respectfully Submitted,



Robin Kingston
Administrative Assistant