

Minutes of the Board of Licensing Commissioners for their meeting held on Tuesday, August 21, 2018, at the Weymouth Town Hall, Chambers located at 75 Middle Street, Weymouth, MA

Attendance (present): Chairperson Kathleen A. Deree, Town Clerk; Daniel McCormack, Director of Public Health; Jeffrey E. Richards, Director of Municipal Licenses & Inspections, Clerk; Police Chief Richard Grimes; Fire Chief Keith Stark; Captain Thomas Still; and Licensing Officer Edward Chase

Chairperson Deree called the meeting to order at 2:00 PM.

## **APPROVALS**

- Minutes: July 24, 2018

Mr. Richards made a MOTION to approve the minutes of July 24, 2018. Chief Stark seconded the motion and it was UNANIMOUSLY VOTED.

## **APPLICATION OF ARTICLE FIFTEEN BREWING LLC FOR A MALT FARMER BREWERY POURING LICENSE AT 835 WASHINGTON ST.**

Ms. Tevin Murray and Mr. Leo Reardon, owners, were present.

Mr. Reardon stated they are a small independently owned and operated nano brewery, producing malt beverages, beer. This became a passion of his while stationed in Germany. He is a Firefighter/EMT. They pursued this as a hobby to what it is now. They started working for a brewery—Personal Brewing Company in Norwood. They were able to do some contracting work and found a following. So, they decided to do it on their own.

Mr. Richards asked for them to explain the difference between a farmer brewery and a restaurant.

Mr. Reardon replied farmer breweries are primarily a production facility, mainly to manufacture beer to send out to restaurants and bars. They don't serve food, but will offer snacks and stuff at the tap room. They can take a growler home.

Mr. Richards stated the license would be granted under the Farmer Brewery Act, which includes reasonable zoning as opposed to strict zoning on where you can place them. There needs to be reasonable parking spaces and you almost don't know what it entails until you get started. He said it is a learning curve on the Town's standpoint. They've had Barrel House Z, the brewery that is located on Woodrock Road. It's a tasting facility and growlers may be taken home for further consumption. He asked for the process in making the beer.

Mr. Reardon replied they take premilled preprocessed grain in a stainless steel "teabag" and put it into 150 degree water, they steep, boil at 212 degrees for over an hour and then add hop and flavor, then is passed through a sanitary chiller and added to the fermentation tanks and add yeast. Once process is complete they product is poured and packaged, primarily into kegs. They have a small building so they are not going to get into the canning process.

Mr. Richards stated it's been a long process.

Ms. Murray replied they started January 1<sup>st</sup>. The State process took a month and a half. They had a lot of work to do with the build out. Federal License took 7 weeks with background checks.

Mr. Richards asked what brought them to Weymouth.

Mr. Reardon replied that he lived in Weymouth for 10 years. His son lives in Weymouth and is a hockey player. They live in Rockland now. His wife works for Brewster Ambulance. The opportunity arose for the location where Brewster Ambulance was no longer using the site as their satellite. He used to work for Fallon Ambulance.

Ms. Murray stated where she worked at the site for Brewster Ambulance she knew the site would work.

Mr. Richards stated under the requirements of reasonable zoning they looked at the number of seats. They determined 29 seats would work. They came in with an alternative plan to add parking spaces to the rear of the lot. This should accommodate what they believe their needs are. They got one lease for both parcels. If they just had one lot it would have reduced their seating.

Mr. Richards opened the meeting for public comment.

Mr. Bob Montgomery Thomas, 848 Washington Street, came forward with plans and exhibits (see attached). He understands that Mr. Reardon is a Canton Firefighter and runs an EMT in Stoughton. He thanked him for his service. He stated his concerns with zoning, conservation and safety issues. He also had concern for the abutting neighbor with health and noise control and urged for a privacy fence to be installed.

No one further spoke. Mr. Richards MOTIONED to close the public hearing. Chief Stark seconded and the motion was UNANIMOUSLY VOTED.

Mr. Richards stated when a site comes like this before the Town it is an existing use. It is under a commercial use and falls under that requirement. State law issues it as a Farmer Brewery which falls under a reasonable zoning act. The application was subject to departmental review by planning, building and conservation. Seating was questioned and they presented a new plan with two lots. The build-out project stated per federal requirements. The Building Permit was issued based on their knowledge that the licenses may not be granted. The process was completed and then they came before us today. Planning didn't require a variance, as it was considered a less use type of business. Abutter notification is not required for properties across the street.

Mr. Richards asked for the hours of operation.

Ms. Murray replied Thursday 4 PM – 9 PM; Friday 4 PM – 10 PM; Saturday 12 PM – 10 PM and Sunday 12 PM – 6 PM.

Mr. McCormack stated the Health Permit was applied for today for very limited food. He didn't have any concerns. They would perform an inspection prior to opening.

Mr. Richards said from the Building Department they would require a Certificate of Occupancy and Sign Permit.

Mr. Richards made a MOTION to approve Article Fifteen Brewing LLC for a Malt Farmer Brewery Pouring License at 835 Washington Street under the requirements of Mass General Law. Chief Stark seconded and the motion was UNANIMOUSLY VOTED.

**APPLICATION OF TRAN PHAM INC. D/B/A 7-ELEVEN 37486B FOR A FOOD VENDOR LICENSE AT 474 COLUMBIAN ST.**

Mr. David Quang Tran, franchisee, was present, as well as a representative from 7-Eleven.

Mr. Richards stated they received abutter notification, lease and floor plans.

Mr. Tran stated they aren't changing anything other than the franchisee; new operator with the hours of 5 AM – 11 PM.

Mr. McCormack stated they applied for Health Permit and he has no issues with the change. It would be subject to an inspection.

Mr. Richards stated a Certificate of Occupancy would be required for the new owners.

Mr. Richards made a MOTION to approve the Food Vendor License for Tran Pham Inc. d/b/a 7-Eleven 37486B at 474 Columbian Street. Chief Stark seconded and the motion was UNANIMOUSLY VOTED.

## **CHAIRMAN'S REPORT**

- Next Meeting:

Mr. Richards stated the next meeting would be held on Tuesday, September 25, 2018 at 2 PM. He made a MOTION of approval. Chief Stark seconded and the motion was UNANIMOUSLY VOTED.

## **CORRESPONDENCE**

None

## **NEW/OLD BUSINESS**

- Complaint RE: Alumni, 836 Washington Street

Mr. Richards stated they received a complaint at the Alumni about motorcycles. The Building

Department went to the site and was told they would be more diligent and the site would be monitored during the late night hours.

### ADJOURNMENT

Mr. Richards made a MOTION to adjourn at 2:46 PM. Chief Stark seconded the motion and it was UNANIMOUSLY VOTED.

Respectfully submitted,

Lisa VanWinkle  
Recording Secretary

Approved: 

Date: 9-26-18

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Kathleen Deree, Chairperson  
Board of Licensing Commissioners

Let me start by saying it would have been more considerate if the proponent had contacted the abutters to share his plans with them, but that's not the case and the building department is entirely to blame. Building likes to run roughshod over people at every opportunity; so this isn't new. But, when you start out so deceptively, how do you expect your neighbors to embrace you?

So, Lot 7 can't be used for Lot 6 parking, which violates ~ 120.69, except by special permit of the BZA at ~ 120.70 (A). The building inspector may argue that in accordance with c. 40A, he has the power to make determinations in many instances. Maybe we should let him run the show alone and eliminate all the other town employees whose jobs are to mind the chicken coop.

MGL c. 40A, § 6 is clear about existing structures and uses or permits. I'll recite certain parts to you. But first, Mr. Brewster purchased this property 3-1/2 years ago on January 26, 2015 and is not entitled to the protections of this chapter because of the 2-year limitation on pre-existing structures.

Quoting § 6: Except as hereinafter provided, a zoning ordinance shall not apply to structures or uses lawfully in existence or lawfully begun, etc, but shall apply to any change or substantial extension of such use. Here we had an exterminating company's chemical warehouse in state code 325, so allowing a microbrewery and taproom doesn't fit the location's use at all.

Further stated in § 6, Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority or by the special permit granting authority - designated by ordinance - that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. I'd hazard that increasing the paved parking area and adding a Dumpster spot right on the lot line of the Iraheta property, which normally requires a five-foot buffer, is substantially more detrimental than the existing nonconforming use.

Another point: The driveway on the December 10, 1973 recorded plot plan, showing a foundation only, is only 14 feet wide and is not sufficient for two-way traffic. See ~ 120-71 (B). That recording was made two years after town meeting amended Article XVII for off-street parking, so nothing can be grandfathered here, regardless of c. 40A, § 6 or other concocted opinion.

There is no loading bay as required per ~ 120-77, 120-78, and 120-79.

There is no forward-motion access for ingress/egress provided per ~ 120-72.

Trucks will have to back in or back out to service the site violating ~ 120-72, which will completely block the driveway and the highway in either situation: just like Crappa John's Pizza did. In addition, access to the building's loading door is blocked by a parking space. So how will customer vehicles enter or exit the site when deliveries or pickups are being made? What about firefighter safety and access Chief Stark, are you happy with this non-plan?

Dumpster access is blocked by two parking spaces and no size or gate is shown on the plan, without dimensions I might add, and where a tree currently exists. I recall the town traffic engineer stating something similar into the BZA record regarding Ken Ryder's plan to adapt the Immaculate Conception School into much-needed housing. So I'm wondering if there is some sort of double-standard as the real standard-standard in Weymouth.

The Dumpster shown on Lot 7 is located directly at or on the Lot 8 property line. What sanitary, health protection or noise control is there at the back yard picnic area for the family that lives on Lot 8 with three young children, one of whom is autistic, and the people who live in the house on Lot 7, who also have a child? Has anyone here really looked at the proposed plan?

Parking is not allowed in the 15 foot Highway Transition buffer at the front of the building per ~ 120.70 (C). That space is not needed anyway since the 2,288 square foot building only requires 12 spaces even though there are questionable spaces shown at the rear on Lot 7, which is in BZA territory.

Snow cannot be plowed or dumped down the hill into the protected wetland area per ~ 120-10.1 to ~ 120-10.4. Where will it be stored? I don't understand why the ConCom wasn't asked to weigh in on this plan per § 7-301 of the Ordinances. Again I have to publicly ask about the double standards employed by some town officials. What are the public benefits in contrast to safety issues: the annual fees that will be consumed by municipal pensions?

I also have to question issuing a building permit in advance of this licensing hearing absent the 2013 Engineering Department requirements for issuing building permits. No signed, stamped surveyor's plan was submitted per that requirement and other requirements. Was this another done deal? Are you commissioners really okay with how this was handled?

Are you really happy that your integrity will be called into question if you pass this without the required zoning and conservation input? Are you happy with being slam-dunked like the beer and wine license for inside a Dunkin Donuts when the Chair and Chief Grimes were absent and Chief Stark voted no? Thank you for that Chief Stark. That meeting and the manner in which it was held and voted was a blatant charter violation.

And why is it that none of the alleged professionals and engineers employed by the town ever noticed that the parking spaces were drawn onto another lot that is not the subject lot — and — with no dimensions??? Were there calculated omissions by the architect who operates his business from his house? Does he pay list of form taxes. So many questions so few answers.

Lots 6 and 7 are in the Watershed and Groundwater Protection Districts and should have Conservation Commission oversight and restrictions on the use of salts for de-icing, required greenery and snow storage. Catch basins come to mind and the former property owner, Jackee Nickerson, might agree. He was big on them back in the late 80's: except on his property.

There are no catch basins shown on the site plan to control automotive discharges and no written details for the upkeep and maintenance of any required catch basins like there are for the Messina Mall directly across the street in the same wetland protection area. More double standards???

The change of use from a former pesticide warehouse to a kitchen, food and beer-sipping service requires a Planning Board Special Permit in my humble opinion. There is nothing eligible to be grandfathered here.

There is no landscaping shown. The HT District requires 25% per ~ 120-62.1, with landscaping required in the 20' front setback per Schedule of District Regulations ~ 120-51. Again this is a change of use. So why not order that the unnecessary front parking spot be replaced with landscaping?

I could go on, but the issuance of a building permit without the standard protocols being followed smacks of incompetence on the part of the building department; or is it worse than that? Just because someone walks in with a check for \$750 is that all that is needed?

The building department has put the cart before the horse like this was a slam-dunk deal, issuing a building permit before the business was approved by this Board of License Commissioners.

Approval by this board without affording needed conditions and constraints could make some people think the board is being led around by little brass rings in their noses by someone who lives in lily-white Pembroke and is a large part of the greater problem facing the people of Weymouth, who are entitled to peace, good order and quiet enjoyment, just like Chief Grimes said about the residents abutting the Next Page Café a few weeks ago.

Is this board's solution to the opioid problem to allow gin and beer joints on every available postage stamp-sized lot and every convenience store and pizza shop so people can take pleasure in the bread and circuses that brought down the Roman Empire?

This should go before the Engineering Department, the BZA, the ConCom and the Planning Board for first approvals. This should not be allowed until ample conditions are provided for and met or at least agreed to by a time certain. Perhaps you should continue this matter until all the departments mentioned, including Planning, weigh in on this properly.

Let me add that I am not opposed to this idea, per se. I wish the proponent good luck. But this board has to incorporate the safeguards embodied in our ordinances and regulations to protect the Thorp's Hill neighborhood and then take the time to enforce the ordinances and regulations, or let the appropriate boards and commissions do their jobs and pass on enforcement to some other office that will do a better job than the building department has done for the last 30 nightmare years. You created the monster; not me.

I've had a few conversations with Mr. Iraheta from 841 Washington Street, which is on lot 8. He was the one who first alerted me about the changes going on at 835 Washington that caused me to look into it. Here is a copy of this presentation which he agreed with in advance and signed for the record.

  
\_\_\_\_\_  
Edgar Iraheta

  
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Date

~ 120-75: Issuance of certificates of occupancy

No certificate of occupancy shall be issued unless required parking facilities shall have been provided in accordance with those designated and approved on the approved plan.



*PICTURES TAKEN TODAY 8-21-18*



~ 120-73: Construction requirements: **EVERY** parcel of land which, after the effective date of this bylaw, is changed to a parking area for more than three vehicles, or to a drive-in business or motor vehicle sales or service establishment **shall** be developed as follows, subject to the approval of the plans thereof by the Inspector of Buildings:

- A. Such area, where subject to wheeled traffic, shall be smoothly graded, properly drained and treated with bituminous or other all-weather hard surface and shall have appropriate bumper or wheel guards where needed.
- B. Where such area abuts a residential district, it shall not be located within less than five feet of the lot line, and a wall or fence of solid appearance or a tight evergreen hedge having a height of no less than five feet shall be erected and maintained between such area and the property in the residential district.
- C. Any light used to illuminate said parking area shall be so arranged as to reflect light away from adjoining premises and streets.