

Meeting of the Village of Brockport Zoning Board of Appeals was held in the Conference Room, Municipal Building, 49 State Street, Brockport, New York, Thursday, December 4, 2014, 7:00pm.

PRESENT: Chair John Bush, Vice Chair Robert Duff, Member Laurence Vaughan, Member Sal Sciremammano, Building/Zoning Officer David Rearick, Clerk Pamela Krahe.

EXCUSED: Member Douglas Wolcott

ALSO PRESENT: Jonathan Nichols, David Enos, Mike Guerrerri, Pam Ketchum (who videotaped the meeting), Art Appleby, Joan Hamlin, Fred Webster, Steve LaDue, Chris Duerr, Katherine Kristansen, Rich Miller, several others who did not sign in

CALL TO ORDER: Chair Bush called the meeting to order and led the Pledge of Allegiance.

REVIEW OF MEETING MINUTES: Chair Bush called for a motion to approve minutes.

➔ Member Vaughan moved, Member Duff seconded, unanimously carried to approve the minutes of the meeting held November 6, 2014 as written.

CORRESPONDENCE:

NEXT MEETING: Thursday, February 5, 2015 at 7:00pm if needed

Public Hearings:

NEW BUSINESS:

1. Name: David J. Enos
Address: 36 Erie Street
Tax Map #: 068.60-1-7
Property Code: 485
Zoning: B-Business
Lot size: 0.35 acres
Purpose: Use variance for a micro-brewery
Provision of Zoning Ordinance: Chapter 58-11 A: Permitted uses in the B-Business District

Applicant Presentation:

Chris Duerr, the architect on this application, handed out a presentation packet. He explained this is a former train depot, was most recently a brain injury rehab facility, and was a bar before that. They are not here for a use variance but rather for an interpretation on what the use is. They will not be selling alcohol on premises. They are asking the board to decide if this is an acceptable use for this zone. The building is in the business district but close to residential properties, which requires a use variance. Mr. Duerr pointed out village code Chapter 58-11 A (8), which states as a permitted use "any use similar in character to those enumerated for which the Board of Appeals may, in appropriate cases and after public hearing, authorize the issuance of a permit." He clarified this is a simpler version of a full-fledged brewery as they are applying for a "farm brewery" license in which all ingredients must be from NYS. His packet explained the farm brewery license. He reviewed the proposed floor plan.

The farm brewery license allows them to produce beer, offer tastings on site, sell beer on premises for off-site consumption, and supply restaurants they own with beer. There is no definition of tasting. The goal of this brewery is to make beer and sell it at Mr. Enos' wood-fired pizza restaurant, to sell it in growlers for off-site consumption, and to have people come in and taste it. Tasting will be free and you can purchase one pint to consume on premise. Their primary reason will be for production.

He reviewed the comparison sheet prepared by NYS of licenses for a brewery, micro brewery, and farm brewery. They are separate licenses. Farm brewers can only sell NYS labeled beer and products. Those who purchase a growler must leave with it full and capped; they cannot consume it on premises.

Mr. Enos plans to restore some of the original look of the building. Guests will come in the original foyer. Will start with 3 brew tanks and eventually move to 12. They will keep the fireplaces and new windows will mimic existing windows.

Proposed tasting hours will be Wednesday, Thursday, and Friday, from 4PM-9PM, with some hours on weekends. They had developed some recipes with a firm in Fairport, but have now moved production to Custom Brewcrafters. They have a garden on a family farm in Hamlin where they grow vegetables for Enos' restaurants, and they will add hops this spring. They brew once a week to supply his restaurants.

To control guests, tastings will be limited to 3 per customer and customers may consume a pint, and then take a growler home. NYS sets guidelines for amount of sips for a tasting.

Public Comment:

➔ Member Sciremammano moved, Member Duff seconded, unanimously carried that the regular

ZONING BOARD OF APPEALS MEETING OF December 4, 2014

meeting be closed and the public hearing be opened at 7:20 pm.

- Pam Ketchum, 91 Park Avenue, questioned impacts on the neighborhood and community such as smell, noise, traffic, and occupancy. Wondered if this is another bar-type situation.
 - Rich Miller, Kendall. Called this an incredible opportunity for this landmark building, which has a rich tradition of this type of business since 1840. To label it “bar-type” is misleading. This is a family farm business and he hopes the board will approve.
- ➔ Member Vaughan moved, Member Sciremammano seconded, unanimously carried that the public hearing be closed and the regular meeting be reopened.

Continued Board discussion on application:

Member Sciremammano says he was at a tasting where you were offered a board with 5 recesses and you asked for which brews you want to taste, he had to pay for it, he couldn't order a beer but could purchase afterwards. Mr. Duerr noted brewers can sell to consume. Sciremammano asked about outdoor seating; applicant stated perhaps on the front porch. When asked if there would be tours, the applicant affirmed, adding you will be able to see from the tasting room and you must have some element of food with the tasting.

Members asked for clarification on the floor plan.

Mr. Enos noted they would close at 9pm, and 8pm on the weekends, and this is not a bar. He has 2 restaurants now and will produce beer for those restaurants. Steve LaDue, head brewer, mentioned brewers are looking to build up breweries like the wine industry in the Finger Lakes area. That's why they wanted the farm brewery license.

Speaking to traffic, there will be one truck a week bringing in supplies and 1-2 trucks taking products out. They will not be 18-wheelers. Mr. Enos has a panel truck that will be used. Production will be a bit less than 200 gallons a week. Mike Guerreri stated he used to have 3 trucks a day when it was Flash's Tavern. Brewing will be once per week for now. As demand grows, production will too.

The applicants opined the smell isn't offensive or overpowering, and is more like an oatmeal smell. There will be fans and venting while being mindful of the upstairs apartments. One brew per week produces about 300 barrels per year. The restaurants use about 200 barrels a year. The smell is about the same as when Java Junction roasts their coffee beans, though not as bitter. Samples are 2 oz. each and you try 3 types. They will not sell any distilled spirits.

When asked about regulations, the applicants must answer to the liquor authority and the federal government. The water used will be regular village water as Lake Ontario water is good for brewing. Any waste water goes down the drain without any harm.

Chair Bush noted the village attorney advised this is an area variance, but Mr. Duerr reminded the board he thinks he's under Ch. 58-11 A (8) where anything “similar in character” can be issued a permit, so he's asking for an interpretation.

Art Appleby, Chair of the Planning Board, was in the audience. He noted Ch. 58-13 A lists permitted uses in the Industrial District including (1) production of farm and garden crops, and (2) manufacturing and processing. These are prohibited in a business district.

Member Sciremammano revisited the attorney letter, indicating the State overruled any infringement of a state regulation by a local regulation. They also looked at the attachment provided by Village Attorney Mastrella. Chair Bush read from Mastrella's letter “It is further my recommendation that these variances be granted as I believe the prohibitions contained in Brockport Code Section 58-11 (14) maybe [sic] invalid as applied to these applications.” Member Duff stated our code prohibits selling alcohol within 300' of a residential area and the state says 500', so we are more restrictive.

Member Vaughan asked if the floor under the brewing room needs reinforcement; the applicants affirmed.

- ➔ Member Vaughan moved, Member Sciremammano seconded, unanimously carried that the application be approved as submitted.

Roll call vote:	Member Vaughan	Aye
	Member Duff	Aye
	Member Sciremammano	Aye
	Chair Bush	Aye

ZONING BOARD OF APPEALS MEETING OF December 4, 2014

2. Name: Jonathan Nichols
Address: 85 Clinton Street
Tax Map #: 068.52-3-3
Property Code: 449
Zoning: B-Business
Lot size: 0.9 acres
Purpose: Use variance for a micro-brewery
Provision of Zoning Ordinance: Chapter 58-11 A: Permitted uses in the B-Business District

Applicant Presentation:

Jonathan Nichols explained he already operates a micro-brewery at The Stoneyard Bar & Grill at 1 Main Street. He just bought 85 Clinton Street and wants to make it a production facility. His proposal is for a bigger system than the previous application and they will make more beer. They may have tasting room eventually. Currently at 85 Clinton, Mahan's Liquor stores product in the western portion. Beer production will be in center; the eastern end will have offices, and maybe tasting room.

Public Comment:

- ➔ Member Vaughan moved, Member Duff seconded, unanimously carried that the regular meeting be closed and the public hearing be opened at 7:58 pm.
 - Art Appleby, 14 Beverly Drive. Opined this looks like an industrial zone application for manufacturing. He thinks a variance can be given, but this is prohibited in a commercial zone.
 - Pam Ketchum, 91 Park Avenue, again asked about the amount of production, smells, and traffic.
- ➔ Member Duff moved, Member Sciremammano seconded, unanimously carried that the public hearing be closed and the regular meeting be reopened.

Continued Board discussion on application:

The applicant's system will produce 5000 barrels per year using the same process as the first application, but with bigger tanks. There's a brew house, a canning line, fermentation tanks, and coolers. They will can and keg for production. Their product will be at Wegmans, etc. Use a 2.5 barrel system now at the Stoneyard. They would like to put in a tasting room in maybe 3 years.

When the board asked about parking, Nichols said he has gone over that with David Miller. He also came before the village board with their idea, and they are in big support.

The board asked about the smell and truck traffic. The applicants explained the grain comes in once per week, probably in a tractor trailer. The building is designed for loading tractor trailers and back when it was Brockport Enterprises, there were 5-6 tractor trailers a day coming from Eastman Kodak.

When asked if they had any experience with this, the gentlemen replied nothing quite this big, but they will be trained on new equipment. The applicants report is a fire detection system on site, but they only have large tanks of water, there are no spirits being produced. CEO Rearick agrees with the Planning Board Chair, this would be a use variance. The brewery will operate with 4 fulltime people the first year.

Chair Bush wondered if this is more industrial. He noted there was an application for a machine shop some time ago and neighbors were concerned about noise and smells. A microbrewery is not an industrial process per code. Appleby countered, saying manufacturing and production is industrial. Is brewing beer manufacturing? Nichols explained you mix water and grain, separate the result, boil, add hops, yeast, ferment it, and get beer. This is opposed to a machine shop making parts with noise.

The applicant clarified his is a microbrewery license. He doesn't have to follow the NYS guidelines of products. There hours will be limited, akin to "banker's hours." He knows he will have to go to PB next.

The board wondered if steam is emitted and what could be done if a complaint were received. Yes, steam is emitted and they could probably get a scrubber, but they've had no trouble at 1 Main.

Mr. Appleby listed another example where a pickle factory application was turned down because they were just shipping the product, not consuming it and that is not allowed. Board members noted the village attorney spoke to this application in his letter, too.

- ➔ Member Sciremammano moved, Member Vaughan seconded, unanimously carried that the application be approved as submitted.

Roll call vote: Member Sciremammano	Aye
Member Duff	Aye

ZONING BOARD OF APPEALS MEETING OF December 4, 2014

Member Vaughan	Aye
Chair Bush	Aye

Other business:

- Request for interpretation – Planning Board Chair Art Appleby referred to the letter dated November 24 he sent to Zoning Board. He showed members a sketch of the front and side yards of a corner lot on Erie Street. Member Vaughan opined if the address is 95 Erie, then that's where the front yard is. Chair Bush offered that from the street to the front of the house is the front yard and the same from the other street. The driveway would have to go through the front yard to get to the side yard.

58-22 B (2) (i) states "For residential use, such off-street parking shall not occupy any part of any required front yard except that portion of the front yard which may be construed as the logical extension of the side yard, being in particular that area running perpendicular from the extreme or side of a structure on the premises or garage thereon to a street or alleyway. No more than 50% of any side yard, or 25% of any rear yard other than the required driveway, shall be permitted for a parking area. Such off-street parking space may be included as part of a required open space for side or rear yards." And section (j) states "On corner or through lots, parking space may not be included as part of the required yards lying adjacent to either street."

After some discussion, the Board decided to recommend to the Planning Board that they disregard section (j) from the code and that the "front" of the house be determined by the address of the property.

- ➔ Member Vaughan moved, Member Duff seconded, unanimously carried to recommend that the Planning Board disregard Chapter 58-22 B (2) (j) when considering driveways on corner lots, and that the front of the house be determined by the address of the property.

The Board asked the clerk to draft a letter to be signed by Chair Bush stating such.

Adjournment:

- ➔ Member Duff moved, Member Sciremammano seconded, unanimously carried that the meeting be adjourned at 8:46pm.

Pamela W. Krahe, Clerk