

NEEDHAM PLANNING BOARD MINUTES

February 9, 2022

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Paul Alpert, Chairman, on Wednesday, February 9, 2022, at 4:07 p.m. with Messrs. Jacobs and Block and Ms. McKnight, as well as Planning Director, Ms. Newman, Assistant Planner, Ms. Clee, Economic Development Manager, Ms. Haelsen and Building Commission, Mr. Roche. Ms. Espada joined the meeting at 4:45 p.m.

Mr. Alpert took a roll call attendance of the Board members and staff. He noted this is an open meeting that is being held remotely because of Governor Baker's executive order on March 12, 2020 due to the COVID Virus. All attendees are present by video conference. He reviewed the rules of conduct for zoom meetings. He noted this meeting does not include any public hearings and there will be no public comment allowed. If any votes are taken at the meeting the vote will be conducted by roll call. All supporting materials, including the agenda, are posted on the town's website.

Discussion of Brewery Zoning

Ms. Newman noted the idea came from Ms. Haelsen who had some contact with developers looking to install a brewery in Needham. She felt the uses did not clearly fit in the framework of the existing Zoning By-Law. The Board needs to define brewery and identify zoning districts where they may be appropriate. Ms. Haelsen put together a lot of information on how other communities regulated breweries and put together a draft By-Law to enable the use. Three different definitions were created – a brew pub, up to 5,000 square feet, in a restaurant and could sell 25% to other establishments; a microbrewery, with up to 15,000 barrels, for wholesale distribution; and nanobreweries with up to 6,000 barrels. A brew pub could be in the Center Business District, Chestnut Street Business District and Avery Square Business District by special permit. A microbrewery would be allowed in the New England Business Center District by special permit and a nanobrewery would be allowed in the Highway Commercial 128 District from 128 to the Charles River, Mixed Use 128 District, Highway Commercial 1 District and a portion of the Industrial District where 4 Squares is located.

Mr. Block thanked Ms. Haelsen for all the background research she did. This has been discussed at the Council of Economic Advisors (CEA) meetings. This is a new use for the town. The Board is creating clarity for the market, and it needs to be very clear to attract this kind of use. For brew pubs, he would like them to be able to sell other merchandise they may have and small amounts of beer like a 4 or 6 pack. Mr. Alpert stated he goes to the Berkshires. The brew pub there supplies beer for take home purchase and to liquor stores to sell. They do not allow breweries to sell directly to the public. They feel that takes away from the liquor stores sales. Mr. Block noted he is not saying the public could buy a case or more. He would like to allow a small amount to be sold like a 4 or 6 pack. He does not feel that small amount would take away from liquor stores.

Mr. Block would like to allow a brewery to be able to manufacture and produce beer but not be required to sell food on site. He would like customers to be able to bring food from other restaurants in town. This concept exists in other markets and has been very successful. Under microbrewery, it should say "accessory preparation and/or sale of food." He does not want a requirement they make food on site. He noted the use table in ZBL Section 4 would support a brew pub in the Business District where Bertucci's is, and he wants it in the Hillside Avenue Business District. A microbrewery should be allowed in Highway Commercial 128, Highway Commercial 1 and the Mixed Use 128 District.

Mr. Alpert stated the major difference between microbreweries and nanobreweries is the size. A distinction in districts is the sizes of lots. Does the Board want to allow a microbrewery on smaller lots? The Board needs to look at size and how they fit in the districts. A brew pub would make sense in some other districts. A brew pub is primarily a restaurant with a brewery. Mr. Block feels the largest facility they would see would be around 50,000 square feet or around half the size of BJ's. He would love to see it behind Staples with a boardwalk and a brewery or brew pub. Mr. Alpert asked if the total would be 5,000 square feet for the brew pub and restaurant. That seems very small to him. Ms. Newman stated it will be done as an add on to the restaurant square footage.

Mr. Alpert suggested looking at John Harvard's brewery in Framingham to get an idea of how much space a brewery takes up. Ms. Newman stated the other option is not to have a limit on square footage. It could just have a definition and no upper limit. Ms. Haelsen stated a lot of brew pubs put the vats in the basements. Mr. Alpert agreed to take out the square footage. Mr. Jacobs asked if there is a limit on the number of package stores in town and was informed there was. Ms. McKnight stated there are 2 limits – one for stores that sell everything and one for stores that only sell beer and wine. The town is at the limit. Mr. Jacobs asked how the Board could approve the sale of a 4 pack or 6 pack if the town is at the limit. Ms. McKnight stated it is complicated to sell to wholesale. She asked if they could sell directly to the public? The Board needs to figure out what the law is. Ms. Newman stated her understanding is a microbrewery or nanobrewery can sell to the public, but a brew pub needs to sell with food. Mr. Jacobs asked what is the state law and what is the limit? Ms. Haelsen noted the limit to the number of liquor stores was increased at the last Town Meeting. She stated it depends on what type of license they can get. These are different types of liquor licenses than what the Town gives. There is a farmer's pouring permit. Mr. Jacobs feels that is pouring a drink and not to sell to take home. Ms. McKnight stated it was helpful to be provided the statutes. Section 19C has a farmer's pouring license with strange provisions and limitations. Section 19D is less stringent. She feels Framingham would be a good model, but it refers to Farmer's brewery and she does not know why. She thinks the ideas are being pulled from Wrentham more than anywhere else.

Ms. Newman stated Framingham did not create 2 different levels for breweries. Wrentham created 2 different levels. The Board could use the Framingham model with no distinction on capacity. Ms. McKnight stated she envisions breweries with accessory restaurants in Industrial zones. She has a concern having them in districts that abut residential. Brew pubs could be in downtown and some smaller areas. A brew pub's primary use is the restaurant. A brewery's primary use is distilling with a restaurant as an accessory use. Mr. Jacobs asked if Ms. McKnight is thinking accessory is less than 50% of the square footage? Ms. McKnight stated she was, but the Board should get more information and some real-world examples. Ms. Haelsen stated she has a spreadsheet from over 50 different breweries in Massachusetts. The majority are in Industrial areas, but some are in downtowns.

Mr. Alpert noted Framingham and Wrentham both allow the sale of products but only what is made on site. Ms. McKnight feels that is reasonable. She wants to get away from the fact you have to eat. Mr. Alpert stated they need to confer with the Select Board. If it is a tasting room, they should not be forced to have food. Building Inspector David Roche stated the Board should create a By-Law and not try to cram this into a like use. Ms. Espada joined the meeting at 4:45 p.m. Mr. Jacobs feels the Board is attempting to make too many distinctions. He likes Ms. McKnight's idea to whittle it down to two. He asked what the timeframe was to put this together. Ms. Newman noted her goal was to get it done for the annual Town Meeting in May. Mr. Alpert does not see them having enough time.

Ms. Espada asked if the commercial site where Muzi's was will still have opportunities if the Board waits until the November Town Meeting. Ms. Newman stated the zoning currently does not allow it. Ms. Espada thought it was written so it was open ended to allow breweries. Ms. McKnight clarified it allows like uses similar to and similar in kind. Mr. Block feels it is a missed opportunity because of the ambiguity. The Board needs to do its job over the next 2 weeks and get a By-Law to Town Meeting in May. Mr. Alpert stated it is a question of priorities. The Board has been mired in 1688 Central Avenue and it is taking a lot of time. Sometimes there is not enough time to get everything done. Ms. McKnight noted priorities and stated some people want ADUs brought forth as soon as possible. She feels people may be upset if the Board brings breweries before ADUs.

Mr. Roche noted he had to leave the meeting. His concern with some of these things would be parking and outdoor dining. He feels that is why it should be under a special permit so it can be regulated. Ms. McKnight would like to take what has been drafted and do a rewrite. She feels they are $\frac{3}{4}$ of the way there. Mr. Alpert stated if there is something in the By-Law close enough to apply 3.1 in the Highway Commercial 1 District, that could be used until there is a separate brewery By-Law. He does not want to see anything with alcohol as a by-right use. Mr. Block stated if someone expressed interest the Board should be informed, and the interested party can come in. Mr. Alpert stated the Chair/Vice-Chair meeting would be the appropriate place.

Mr. Alpert stated, in the nanobreweries definition, he does not know what "limited distribution" means. In brew pubs it was 25%. Mr. Jacobs stated he had a few edits. In the definition of brew pub, it says "state statute." He does not think the comma should be there. In nanobreweries, it says a barrel is equivalent to 31 gallons per year. He objects to "per year."

Mr. Alpert feels “per year” should be after 15,000 barrels. That was agreed. Ms. Newman stated she wants to get this done for the Spring Town Meeting. They will hopefully be able to tweak it and get it to the Board members at the next meeting. She wants to get it to the Select Board on 2/22/22 so they can refer it back to the Planning Board and there can be a hearing on 3/15/22. She feels that date can slide but she wants to try to get it done by the end of March.

Minutes

There were no minutes to approve.

Report from Planning Director and Board members

Ms. Newman stated she sent another revised draft of the 1688 Central Avenue decision. There will be a revised packet from the meeting on Friday morning. It will be posted on the website tomorrow morning.

Upon a motion made by Mr. Jacobs, and seconded by Ms. McKnight, it was by a roll call vote of the five members present unanimously:

VOTED: to adjourn the meeting at 5:22 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Adam Block, Vice-Chairman and Clerk