



BOARD OF APPEALS
TOWN OF FOXBOROUGH
40 SOUTH STREET
MASSACHUSETTS
02035

**Foxborough Zoning Board of Appeals Minutes
October 17, 2013**

Members present: Chairman Neil Forster, Member Kim Mellen, Alternates Kevin Penders and Kris Behn

Chairman Forster opened the meeting at 7:00 p.m.

7:00 p.m. Moosejen, Inc. for an appeal of a building permit denial by the Building Commissioner/Zoning Enforcement Officer, to operate a micro-brewery at 21 East Belcher Road. The property is located in a Limited Industrial Zoning District and is not located in any restrictive zoning overlay districts. Atty. Frank Spillane was present representing the owner David Strymish and the President of the Brewery Scott Haigh. They received a denial from the Building Enforcement Officer stating that a micro-brewery is not an allowed use in the Limited Industrial Area.

Building Commissioner Bill Casbarra stated that a micro-brewery use is not listed in the table of uses and the bylaws state in section 3.1.6 that any use not listed is prohibited. Atty. Spillane feels it should be allowed under 3-1 B Low Hazard Use. Atty. Spillane noted that Section 11 of the Bylaws state that the State Building Code definitions can be used if a definition is not listed in the Bylaws. Atty. Spillane submitted Section 306 of the International Building Code which states that beverages with up to 16% alcohol content are in the Low Hazard Group and Section 311 which states that beverages with up to 16% alcohol in metal, glass or ceramic containers are included in Low Hazard Storage.

Low Hazard uses are permitted in the Industrial Zone, which this East Belcher Road location is included in. Other businesses in the area are contractors, truck repair, tree service, warehouse and an ice rink.

Mr. Strymish stated that they will be applying for a Farmer Brewer License from the state as they are planning on making craft beer and maybe eventually cider. Other available licenses are too expensive for a small brewery.

Mr. Haigh stated that local ingredients would be used whenever possible and the alcohol content would be anywhere between 3 – 8%. Distribution would be in personal vehicles in the beginning.

Mr. Strymish currently has a mail order cookbook business in the building and has been there for twenty years. The total building size is 30,000 sq. ft.

They will be manufacturing on the site and would like to conduct tours of the facility but will not have a pub on site. There will be no sales on the site in the beginning, although they would be allowed under the Farmer Brewer license from the state.

Mr. Casbarra noted that the microbrewery definitions in the State Building Code were added in the past year.

There were no abutters present.

A motion to close the Public Hearing was made by Ms. Mellen and seconded by Mr. Behn. The motion carried 3-0-0.

Mr. Penders stated that he does not see this as an offensive use given the location of the building and the limited retail.

The Board needs to either uphold or overturn the Building Commissioners decision. If it is overturned the applicants will still need to go to the Planning Board for Site Plan Approval.

A motion that the decision of the Building Commissioner be overturned was made by Ms. Mellon and seconded by Mr. Behn. The motion carried 3-0-0.

A motion that the Board finds that the application for a micro brewery falls within Section 3-1 B 1 of the Zoning Bylaws was made by Ms. Mellen and seconded by Mr. Behn. The motion carried 3-0-0.

7:10 p.m. 91 Washington Street Investors LLC c/o Foxstar Corp, for a Special Use Permit pursuant to Foxborough General By-Laws, Section 15(B), Signs IIIB for a general advertising sign, and variances from Section V.A.7.b.3 and any other variances or special permits necessary to allow the location of a free standing general advertising billboard sign at 91 Washington Street with a sign area of 672 sq. ft. and a sign height of 35 feet. The property at 91 Washington Street is located in an S-1 Special Use Zoning District and the Economic Development Area Overlay District. The applicant Mike Saegh was present and represented by Atty. Frank Spillane.

Mr. Forster wanted to know if there have been any changes in the circumstances of the application since last month's denial. Mr. Forster also read a letter from the Town Planner, Sharon Wason, into the record. The Planning Board is preparing an RFQ to update the Sign Bylaw which they hope to have completed by the May Town Meeting. This update will address general advertising signs among others.

The applicant still needs to provide a compelling need and public benefit. Mr. Forster thinks that the compelling need argument is impossible to meet in his opinion. The language was drafted by the Planning Board and the Kraft Organization specifically for the stadium.

Atty. Spillane asked that the hearing be continued while the Planning Board works on the sign bylaw.

A motion to accept the applicant's request for a continuance to December 19, 2013 was made by Ms. Mellen and seconded by Mr. Penders. The motion carried 3-0-0.

A motion to approve the minutes of September 19, 2013 was made by Mr. Forster and seconded by Ms. Mellen. The motion carried 3-0-1 with Mr. Penders abstaining.

The meeting was adjourned at 7:50 p.m.

Respectfully Submitted,

Diana Gray