



BOARD OF APPEALS
TOWN OF FOXBOROUGH
40 SOUTH STREET
MASSACHUSETTS
02035

**Foxborough Zoning Board of Appeals Minutes
May 17, 2018**

Members present: Chairman Barney Ovrut, Member David Brown and Kim Mellen, Associate Member Kurt Yeghian

Chairman Ovrut opened the meeting at 7:00 p.m. in the Gala Meeting Room of the Foxboro Town Hall, 40 South Street.

Continued Public Hearing - Hughes Entertainment Inc. dba LaserCraze seeks a Special Permit pursuant to the Code of the Town of Foxborough, Massachusetts, Chapter 275: Zoning, Section 3.1.6., Table 3-1 Table of Uses, Use Group J.3., to allow the operation of a lasertag recreational entertainment facility, and a determination that the incidental use of approximately twenty-five amusement games does not constitute such proposed use as an Arcade within the meaning of such chapter. The property is located at 30 Commercial Street in the Highway Business District and is not located in any restrictive overlay district. Greg Hughes, owner/operator of LaserCraze was present as well as Tracy Baran General Counsel for WP Foxborough Associates. Mr. Hughes submitted a list of the arcade games asked for by the Board at the last meeting for the "Game Zone" section of his business. Atty. Baran submitted a letter on May 15, 2018 in support of Mr. Hughes petition by explaining that not all of the games in the "Game Zone" could be considered electronic arcade machines but are more interactive in nature.

Ms. Mellen asked if the Board could authorize a permit that seems contrary to what Town Meeting defined. Mr. Ovrut responded that while the Board does have the authority to make a determination it cannot authorize anything that is not permitted.

Mr. Brown commented that he feels that the Game Zone is not part of the principal use of the business as it is only 623 sq. ft. of a 22,000 sq. ft. area. Mr. Yeghian also feels it is a very small part of the whole business, only 2.8% of the available floor space.

The Board debated the definition of arcade machine versus electronic games. The definition was added to the Bylaws in 2001 and the only permit using this definition was the Planning Board's approval of the Funway Café in 2001; that permit did not include a definition into the types of machines that constitute an arcade.

Mr. Ovrut read Atty. Baran's letter into the record.

The Board members noted that Section 3.1.6., Table 3-1 Table of Uses, Use Group L.9. of the Bylaws allows non-residential accessory uses and structures which do not exceed 15% of the gross area of the principal building are permitted by right in the Highway Business District. This would allow the Game Zone as an allowed use by right as it is only 2.8% of the available gross area of the business.

The Board members discussed whether the Game Zone is a subordinate use of the whole Laser Craze operation. Mr. Hughes stated that this business is more family friendly and will not become a teen hangout; he does not have issues with teens hanging out at his other locations, he has been in business since 1998 in Randolph MA. The main use is Laser Tag and the games are an accessory use. The Board members felt that a definition of the Accessory Use is needed. Mr. Brown does not feel that the use constitutes a traditional arcade, he is okay with the laser tag use. The other Board members agree that this could be considered a non-residential accessory use. The Building Commissioner is also of the opinion that these games could be considered interactive games.

A motion to make a determination that Use Group L.9 applies in terms of the Game Zone games and can be permitted as a matter of right as an accessory use to the laser tag business was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 3-0-0.

The Board then moved onto the Special Permit request for a low density recreational use. Under Table 3-1, Group J.3. The Board feels that the laser tag activity is consistent with a low density recreational use and meets all of the Special Permit criteria.

A motion to Grant the Special Permit for the operation of a laser tag recreational entertainment facility at 30 Commercial Street with the following conditions: the Game Zone area be limited to 650 square feet of the building and contain no more than 25 amusement games with not more than 3 being video or electronic games, an employee shall be present in the Game Zone at all times; a floor plan shall be submitted to the Building Commissioner showing the location of the laser tag area, the Game Zone area, the inflatable area, snack bar area and rest rooms prior to the issuance of any building permit; the hours shall be Monday – Thursday from 12:00 p.m. – 9:00 p.m., Friday from 12:00 p.m. – 11:00 p.m., Saturday from 10:00 a.m. – 11:00 p.m. and Sunday from 10:00 a.m. – 8:00 p.m.; an amusement license be obtained from the Board of Selectman and any Board of Health permits as required be obtained was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 3-0-0.

GENERAL BUSINESS

Minutes – April 25, 2018

The Board reviewed the minutes of April 25, 2018.

A motion to approve the minutes of April 25, 2018 as amended was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 4-0-0.

Board Re-Organization

Ms. Mellen was appointed as a full member of the Board and Lorriane Brue was appointed to the Associate Member position at a recent meeting of the Board of Selectmen. A Board reorganization is now required.

A motion to nominate Mr. Ovrut as Chairman was made by Mr. Brown and seconded by Mr. Yeghian. The motion carried 4-0-0.

A motion to nominate Mr. Brown as Vice Chairman was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 4-0-0.

A motion to nominate Ms. Mellen as Clerk was made by Mr. Yeghian and seconded by Mr. Brown. The motion carried 4-0-0.

The meeting was adjourned at 8:25 p.m.

Respectfully Submitted,

Diana Gray

Signed on behalf of the Board

Kim Mellen, Clerk