

**MINUTES OF PUBLIC HEARING
HELD BY THE PLANNING AND ZONING COMMISSION
APRIL 20, 2020**

Meeting Conducted via Zoom

ROLL CALL:

Members Present: Eric Prause, Chairman
Patrick Kennedy, Vice Chairman
Michael Stebe, Secretary
Jessica Scorso
Jessica Poland

Alternate Members: Julian Stoppelman
Bonnie Potocki
Teresa Ike

Also Present: Gary Anderson, Director of Planning
Megan Pilla, Senior Planner
David Laiuppa, Environmental
Planner/Wetlands Agent
Nancy Martel, Recording Secretary

The Chairman opened the Public Hearing at 7:00 P.M. The Secretary read the legal notice when the call was made.

SAM MALONE BREWING CO., INC. – Request a special exception under Art. II, Sec. 16.15.02 (m) for outdoor entertainment on the back (east) patio at 165 Adams Street. – Special Exception (2020-011)

Mr. Ellis Reilly, representing Sam Malone Brewing, introduced himself. Mr. Reilly reported the location of the business, the surrounding properties, and the details of the property. He presented an aerial view of the parcel and explained the proposed location of the speakers and their projections in relation to the surrounding properties. He stated that the level of sound will be 105 decibels, more likely closer to the 95-100 decibel range. Mr. Reilly displayed an aerial view of the subject property and the surrounding properties with the speaker throws superimposed. He stated that he anticipates no effect on the area businesses and homes.

Mr. Stebe asked whether the application is just for adding speakers to the patio, or if it is for live entertainment as well. Mr. Reilly said there would also be live entertainment. Mr. Stebe asked whether live bands would bring their own speakers and Mr. Reilly responded that the business intends to use their own system as much as possible.

Ms. Potocki assumed the sound estimates were not created by utilizing the proposed speakers in the locations, which would have been her preference.

Mr. Reilly noted that they did not hire noise surveyors for the proposed speakers.

Ms. Scorso reiterated the proposed hours for outdoor music, which would start no earlier than 11 A.M. and cease no later than 10 P.M., which Mr. Reilly confirmed. She asked if there has been any discussion with the one residential homeowner near the business. Mr. Reilly reported that they have spoken with the homeowner, and he tries to keep the homeowner informed of proposals.

Mr. Prause questioned the hours of operation, which Mr. Reilly reiterated in detail.

Mr. Reilly added that, on Sundays, the music would end earlier.

Mr. Prause asked if there would be additional buffering other than the proposed fencing.

Mr. Reilly explained that there is a stone wall to the north and a large building owned by Greene Storage to the east, which would also provide buffering.

Mr. Stoppelman questioned the type of music planned and Mr. Reilly reported that it would be best classified as “soft rock.” Ms. Potocki expressed her concern about the sound affecting people hiking on the Hockanum River Trail nearby.

Mr. Reilly referred her to the diagram of the speaker projections presented earlier.

Ms. Pilla reported that there are no outstanding comments from Staff regarding the application.

Mr. Prause opened the meeting to public comments.

Ms. Pilla read a written statement from Richard Allen, 201 New State Road, as follows:

“We live on New State Road and are 100% opposed to Elicit Brewing getting any permit for outdoor entertainment as they are not a brewery. They are a nightclub with bouncers and overflowing with drunk people emptying into our town streets all night long. There are responsible breweries in town that are actually breweries; Elicit is not. Any outside entertainment is not going to be mellow, quiet music but will be loud bands with loud crowds outdoor at night. The music will more than likely be heard where we are as well as be a large deterrent to people who live nearby on Adams Street and even up Hilliard Street. It’s ridiculous

that they are even considering this as it will surely be going against noise ordinances. This should not happen and we are completely opposed to this and would vote no to allowing this.”

Mr. Reilly reported that, for reference, 201 New State Road is quite far away and he is not sure sound can travel that far. He stated that they do not intend to have a nightclub outside, just a place for people to gather and have a good time. Mr. Reilly stated that they don’t overserve people and take that very seriously, and take steps to help patrons get home safely.

Mr. Stebe reiterated that outdoor live entertainment will not be the same types of bands that play inside. He stated that he knows bands that play inside and noted that they are not quiet. Main Pub was the original applicant for outdoor entertainment, and they set the technical bar for applicants very high by using a sound engineer. Mr. Stebe suggested that the business limit the performing bands to the speakers utilized on the patio.

Mr. Reilly stated that they would be amenable to that. He said that hiring a sound engineer is challenging during construction, but could certainly be entertained in the future.

MOTION: Mr. Stebe moved to close the public hearing. Ms. Scorso seconded the motion and all members voted in favor.

NICHOLAS TOTH – Zoning regulation amendment at Art II, Sec. 16.09 regarding automobile parking in the Industrial zone. – Zoning Regulation Amendment (2020-016)

Mr. Nicholas Toth, owner of Toth Enterprises, Inc., introduced himself and explained that he plans to open a business called Stumpy’s Hatchet House in the Industrial zone in Manchester. His application is for a zoning regulation amendment in the Industrial zone. The proposed location for his business has suitable parking but does not meet the parking requirements in the current regulations. He stated that the regulations do not take the hours of operation into consideration and that his business will not operate during normal business hours.

According to Mr. Toth, he is seeking to amend Art. II, Sec. 16.09, to allow the off-business hours to be taken into consideration in order to receive a Certificate of Occupancy. He detailed the required parking spaces and stated that his business complies when considering their off-business hours. If the text amendment is adopted, Mr. Toth stated, his business will be well on the way to opening. He noted that he has received approval of a text amendment in South Windsor for his business in that town.

Ms. Pilla noted that both the Planning & Zoning Commission and the Planning & Economic Development Department have discussed exploring parking requirement reduction methods, including shared parking for all zones in the future. This application will only allow shared parking in the Industrial zone, which does represent an opportunity to see how it works on a smaller scale. She reported that it is not an uncommon regulation in surrounding municipalities for businesses operating during non-competing hours. Ms. Pilla noted that Mr. Toth has worked

very closely with her and Mr. James Davis, the Zoning Enforcement Officer, over the last several weeks to finalize the language of his proposal to ensure it is reasonable and enforceable to the satisfaction of the ZEO. The purpose of shared parking is to reduce the number of parking spaces required on similar sites to prevent excessive pavement and the associated effects on the environment, and also to encourage pedestrian-oriented development.

Ms. Pilla reported that the proposal was submitted to the Capital Region Council of Governments (CRCOG) for review, because portions of the Industrial zone abut adjacent municipalities. The comment received from CRCOG stated:

“The staff of the Regional Planning Commission of the Capital Region Council of Governments has reviewed this zoning referral and finds no apparent conflict with regional plans and policies or the concerns of neighboring towns.”

Mr. Stebe commented that the first paragraph of the proposed text is clear, in that all parties have to agree and the agreement would be filed with the appropriate office. The second paragraph refers to changes; it starts off commenting on property owners and tenants within, but then it says that, if there is a change in the tenancy or use, the agreement must be renegotiated. Mr. Stebe asked whether a change in property ownership would also trigger renegotiation, and suggested possibly adding the phrase “property ownership”.

Ms. Pilla assumed Mr. Stebe was speculating that the tenants would remain the same but the property ownership would change. In her opinion, it would be a good idea to add that language.

Mr. Prause questioned how that paragraph should change. Mr. Stebe stated that the phrase “property ownership” would be inserted in the beginning of that sentence, i.e., “Upon any change in: property ownership, tenancy...”

Mr. Prause commented that the first paragraph refers to approving shared parking administratively, but administrative approval has never been defined. Other sections of the zoning regulations state, “With the approval of the Director of Planning and the Commission Chair,” rather than “administrative approval.” In Mr. Prause’s opinion, it should be spelled out with the same language used in other areas of the zoning regulations.

Mr. Anderson said the intent was that the approval would be done as part of the zoning process. When an applicant submits a building permit, that goes to the Zoning Enforcement Officer, who would work with the Planning Department to make sure the regulation is met.

In Mr. Prause’s opinion, the wording should be clearer about what “administrative approval” means. He suggested that either “by Town Staff” or “by the Planning Department” would be clearer. He recommended changing “approved administratively,” to “approved by the Planning Department.”

Mr. Prause asked if there were any public comments on this item. Mr. Anderson reported that one person had requested to speak on the Zoom call.

Ms. Liane Lombardi stated that she is one of the owners of Borden-Lombardi Realty. As a commercial real estate broker and business owner, she reported, she is very much in favor of the proposed zoning regulation change. Allowing the use of unused parking spaces when adjacent businesses are not using them is great for landlords and good for tenants. In her opinion, the change would make Manchester more business-friendly and has been done in other towns. She stated that there is no downside to this and it should have been instituted in Manchester long ago.

Ms. Pilla read another comment from Mr. Richard Borden, business owner of Borden-Lombardi Realty at 646 Porter Street, as follows:

“I would like to comment in favor of the proposed change to our zoning regulations, Art. II, Sec. 16. The revision proposed to allow shared parking when businesses operate at different times is logical and will be helpful in promoting businesses within the town of Manchester. The specific case of Toth Enterprises located at 8 Progress Drive is an excellent example of sharing parking on the same or contiguous lots when the operations are mainly conducted at non-competing times. The proposed amendment to the parking provisions of our zoning regulations will benefit the Manchester community by helping to promote quality business operations in Manchester. As a Manchester real estate broker specializing in commercial real estate for many years, I would like to place in the record my support of the proposed amendment to Art. II, Sec. 16 of the parking provisions of our zoning regulations. Thank you and I urge your favorable consideration of this proposed change.”

Ms. Potocki, referring to the discussion about administrative approval, said it is very hard for a Zoning Enforcement Officer when there are conditions based on times of use. She questioned how it would be regulated if a business started earlier or continued later. Ms. Potocki explained that there will be a Certificate of Occupancy and proposed language referring to different occupants using the building. She contemplated whether there will be a process to reevaluate based on the type of businesses filling the previously-approved buildings.

Ms. Pilla stated that is the intent behind the requirement that the shared parking agreement be updated with every change in tenancy, which would be required to be recorded in the land records prior to a new tenant receiving a Certificate of Occupancy.

Mr. Stebe asked for clarification of the language for the first paragraph regarding administrative approval. Mr. Prause reiterated that the word “administratively” would be replaced with “by Planning Department Staff.”

Mr. Anderson noted that the Zoning Enforcement Officer does not work in the Planning Department, and suggested using the phrase “by Town Staff.” Mr. Prause questioned whether that would be restrictive enough. Mr. Anderson responded that it could say “by the Planning

Department and/or the Zoning Enforcement Officer,” but in his opinion, he would use the phrase “by Town Staff.”

Mr. Prause concurred with changing “administratively” to “by Town Staff.”

Mr. Kennedy remarked that just saying “approved administratively” is fine. It is synonymous with “approved by Town Staff.” In his opinion, there was no reason to change the language.

MOTION: Mr. Kennedy moved to close the public hearing. Mr. Stebe seconded the motion and all members voted in favor.

The Chairman closed the public hearing at 8:08 P.M.

I certify these minutes were adopted on the following date:

May 18, 2020
Date

Eric Prause, Chairman

NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.