

**TOWN OF EPSOM
ZONING BOARD OF ADJUSTMENT MEETING
Epsom Central School
March 16, 2022, 7:00PM**

PRESENT

Glenn Horner, Chair
Andrew Ramsdell, Vice Chair
Gary Kitson, Member
Alan Quimby, Member
Prescott Towle, Alternate Member
Ryan Kehoe, Alternate Member
Betsy Bosiak, Planning Board Representative – excused absence

ALSO PRESENT

Jennifer Riel, Recording Secretary
Seth Little, applicant
Josh Messinger, applicant
Bill McBride, McBrides Water
Ben Barr, Watchfire Signs
Virginia Drew, Board of Selectmen Representative

CALL TO ORDER

Chair Horner called the meeting to order at 7:04PM.

Introductions were made of the Board members present.

Chair Horner asked Mr. Kehoe to sit on the Board as the fifth member of the Board for this meeting.

APPROVAL OF MINUTES

Meeting of March 22, 2022 – The minutes were reviewed, and no edits were made. **Mr. Kitson made a motion to approve the minutes as amended. Mr. Quimby seconded the motion. Motion passed, 5-0-1.** Mr. Ramsdell abstained.

Case 2021-13 (Little – Special Exception) [Continuance]

Seth Little has applied for a Special Exception per Article II [Zones and Districts], Section C [Table of Uses], Numbers 3 [Eating and drinking places not including drive-in establishments] and 27 [Manufacturing]. The applicant plans to open a Nano-brewery, which will sell retail beer brewed on site, and include a place for eating and drinking. The property is located at 940 Suncook Valley Hwy (Circle Plaza) within the Residential/Commercial Zone and is identified on Epsom Tax Map U-15 as Lot 55.

Chair Horner stated this case was continued from December 2, 2021 to February 2, 2022 to March 2, 2022 then again continued to this meeting; Chair Horner read the public notice into the record.

Chair Horner stated there was a warrant article passed at Town Meeting on March 8, 2022 in regard to breweries but there won't be any impact to this case.

Chair Horner confirmed 2 additional certified mail receipts were received from noticed abutters; two were returned undeliverable.

Chair Horner stated previously there was concerns by the Board about the septic system, Police Chief concerns and seating plans. He noted input was received from the Fire Department as well and the septic is being researched. Mr. Little stated they don't plan to offer food but customers will be allowed to bring in their own.

Mr. Little stated he hasn't fully addressed all the concerns outlined at the last meeting; he stated he talked with Mr. Kitson and information was presented to the Water Commission; projected usage is about 700 gallons per week. Chair Horner asked if the town water would be used for the brewing. Mr. Little confirmed it would likely need to be filtered.

Mr. Little stated he met with the Fire Department and presented a revised layout plan; he stated the main concerns were access around the building and outside seating; there are no plans to allow customers to use the side parking area. He stated the exits will be marked with LED lights as well as inside the walk-in cooler; on the backside of the building there are two doors that are single but a double door will be added for business use only. The exits on the hallway will be decked over so there won't be any steps down. Mr. Little explained the space will be pretty open concept and they are going to be working with the Fire Chief on placement of smoke detectors. He is planning to reach out to the Police Department to review the plans.

Mr. Little stated he met with the septic installer and discussed their projected use; it was suggested that the septic be upgraded. He stated this has also been discussed with the landlord.

Chair Horner questioned how parking would work if there were seating for 60; he stated based on a formula for parking would work out to 50 spaces based on the square footage of the space. He stated there are about 100 for the whole plaza and questioned how other businesses will be impacted. Mr. Little stated the taproom is planned for about 1500 square feet, while the remaining square footage is for the freezer, cooler and brewery. Mr. Ramsdell stated he doesn't think the calculation will hold true to this type of business; he stated he would expect about 25 spaces to be adequate for this type of business. Mr. Little stated he looked at the hours of operation of surrounding business, noting that the busy times for the brewery would be closed hours for the neighboring businesses.

Mr. Little asked if there needs to be a document for the Fire Department to sign off on the plans. Chair Horner stated the Board will need written evidence as well as verbal testimony to make a decision on the case but nothing formal is needed at this point as testimony has been received at this meeting. Mr. Kehoe noted the Fire Department will do their own periodic inspections.

Mr. Little requested a continuance to May.

Mr. Ramsdell asked about the additional expansion space indicated on the plans. Mr. Little stated at this point it is the Town's meeting space but once it is vacated, he has first dibs on the space and he plans to keep it as a function area. Mr. Ramsdell stated he has concerns about the spacing outdoors, particularly around the propane tanks; it seems tight around the corner and outdoor seating could create congestion. Mr. Little stated he plans to discuss this with the Police Chief; he is also looking into the licensure for putting tables on the grassy area.

Ms. Drew stated she knows it is tight around that corner as Dollar General trucks have hit the corner of the building in the past. Chair Horner suggested more details plans be done for this particular area.

Mr. Ramsdell asked if there could be a door on the side of the building to access the beer garden/seating area rather than having to use the door on the front of the building. Mr. Little stated they are discussing options for access to the outdoor seating in the back.

Mr. Kitson made a motion to continue the public hearing to May 18, 2022 at 7:00PM. Mr. Ramsdell seconded the motion. Motion passed, 5-0-0.

Case 2022-001 Variance - Josh Messinger of Advantage Signs, has applied for a Variance to Article III, Section M (Signs), paragraphs 1 (Size) and 1b (lighting) to permit the installation of a 130 sq. ft. sign (100 sq. ft. maximum allowed) a portion of which will be digital (digital signs are not permitted). The property is located at the Epsom Traffic Circle within the Residential/Commercial Zone and is identified by Epsom Tax Map U-5 as Lot 28.

Chair Horner confirmed notices were sent to abutters; no responses were received from Larrabee Commons, the liquor store, AVL Epsom and Lawderale, LLC.

Josh Messinger stated they are looking to put in an illuminated double sided sign. He stated the proposed size is under the maximum allowed.

Chair Horner noted digital signs have been allowed with conditions in town but since those were approved, he has become concerned about colorations and the affects on the dark-skies. Mr. Messinger stated the manufacturer, Watchfire Signs, has been helpful with developing signs that fall in line with local codes and ordinances.

Ben Barr, Watchfire Signs, stated the company has been around 90 years and while this is a new technology, and explained the options with time change in the signs, noting this sign would have a once a minute change. He explained studies have been done over the years for videos and full animation, as well as static signage and there was no difference with how accidents occur. He stated the company has never had any federal lawsuits related to the signs on the road. Mr. Barr stated it is also an opportunity for local businesses to communicate effectively to the community and give back with messages. He explained the signs dim at night but suggested there could be options regarding the colors with automatic dim and color change within the software.

Mr. McBride stated they are happy to help out with community messages; he stated his business has been at the location for many years, having improved the inside of the building and their goals for this year are to have a new sign and finish the outside of the building.

Mr. Ramsdell asked what the size of the current sign is. Mr. Barr stated the enhancement is a drop at the top and a little cabinet at the top but it will be about the same size as the existing sign.

Chair Horner stated the design presented is good. He suggested the maximum size allowed be 132 square feet; the digital portion should display the figures as presented but limited to a dark background with light lettering. He suggested the information should be static with no movement; the sign shall be off between 9:00PM and 5:00AM; if there are dimmable capabilities it could be employed. He suggested one change per day as he doesn't see a need for the information changing more than that and questioned why it would need to be once per minute as it seems like it could be an unnecessary distraction. Mr. Barr noted the many surrounding communities, the State and federal DOT allow multiple changes per day. Mr. McBride stated he would like the opportunity to change the sign more than once a day, even if its not every minute; he stated a lot of traffic goes through on a daily basis. He stated he is fine with the sign turning off at 9:00PM, which is the same for the existing sign. Mr. Barr stated there is the capability to have multiple messages, but they are also cognizant of best management practices which keeps messages simple yet informative. Mr. McBride stated just because he's approved for multiple changes doesn't mean he will do it all the time but would like to have the option to change every five minutes. He stated it is an expensive investment and he wants to utilize it to the best capacity he can. Chair Horner stated he is concerned about setting a standard with approving something like that; he stated static seems like less movement. Mr. Barr stated a change could be noticeable but its not flashing and rapid fire changing; it is not motion. He stated it is still static; noting this is only 32 square feet of changing area and there is no flashing as that feature was removed from the software. Mr. Barr explained Massachusetts DOT did a study on digital billboards, and it was found that people were more aware of surroundings when in the circle areas.

Mr. McBride stated he was initially concerned about the brightness and effect on the area, but his goal is to fit into the community and being a good neighbor; he stated his businesses' reputation is important; his goal is to always do business well and he wants the sign to reflect it. He stated he believes the sign will give his business a bit of an edge with competition.

Chair Horner opened the meeting to input from abutters and the public opposed to the application. None was indicated.

Chair Horner closed the public hearing.

The Board reviewed and discussed the variance criteria:

- A. *The variance will not be contrary to the public interest:*
The Board agreed by consensus, “YES”.
- B. *The variance is consistent with the spirit of the ordinance:*
The Board agreed by consensus, “YES”.
- C. *By granting the variance, substantial justice is done:*
The Board agreed by consensus, “YES”.
- D. *The proposed use will not diminish the value of surrounding properties:*
The Board agreed by consensus, “NO”.
- E. *Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:*
The Board agreed by consensus, “NO”.
- F. *For purposes of this criteria, “unnecessary hardship” means that, either:*
 - 1) *Owing to special conditions of the property that distinguish it from other properties in the area:*
 - a. *No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and*
 - b. *The proposed use is a reasonable one.*The Board agreed by consensus, “YES”.
- 2) *(2) Owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.*
The Board agreed by consensus, “NO”.

Mr. Kitson made a motion to approve the request for Case 2022-001 Variance - Josh Messinger of Advantage Signs, has applied for a Variance to Article III, Section M (Signs), paragraphs 1 (Size) and 1b (lighting) with the following conditions:

- 1. *The sign shall be constructed with company information on top and a digital sign below having dimensions as shown in the figure submitted with the application;***
- 2. *The total area of the sign shall not exceed 132 sq ft;***
- 3. *The digital portion of the sign shall be restricted as follows:***

- a. The graphics and messaging as shown in the figure submitted with the application (“Is Your Water Safe” message) may be displayed;*
- b. Display shall be dimmed based on ambient light conditions.*
- c. Displays shall be limited to a dark background with light imaging and text prior to dawn and after dusk;*
- d. Displays on the signs shall be limited to a static image or information only. No movement or flashing allowed;*
- e. Display shall not change more than once every 5 minutes;*
- f. The sign shall be turned off between the hours of 9 pm and 5 am daily.*

Mr. Kehoe seconded the motion. Motion passed, 5-0-0.

Mr. Ramsdell stated that due to his schedule, he can’t remain as vice chair of the ZBA and suggested someone else fill the roles. Chair Horner noted there are officer elections in May and it was agreed Mr. Ramsdell would continue to then.

Mr. Ramsdell asked who the Zoning Compliance Officer is. Ms. Drew stated it is Scott Lacroix; she explained they are working with him to have him attend some of the meetings as it would be beneficial to have him involved. She stated he has attended the Board of Selectmen meetings. Chair Horner noted that historically the role of the ZCO is to be an advocate for the Town and provide input at each case; he suggested every case needs to be reviewed by the ZCO to determine whether it needs to go before a Board as he has fielded many calls for advice and direction, but he can’t provide that on cases. Ms. Drew stated the goal of the Board of Selectmen is to revisit the job duties.

ADJOURN

Chair Horner adjourned the meeting at 9:00PM.

Respectfully Submitted,

Jennifer Riel

Jennifer Riel, Recording Secretary