



BARNSTABLE
TOWN CLERK

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**Town of Barnstable
Planning Board
Minutes
February 11, 2013**

Matthew Teague – Chairman	Present
Paul Curley – Vice Chairman	Not Present
Patrick Princi - Clerk	Present
Felicia Penn	Present
Raymond Lang	Present
David Munsell	Present
Stephen Helman	Not Present

Also in attendance were JoAnne Buntich, Director Growth Management.

Public Hearings:

7:00 pm Public Hearing

**Regulatory Agreement No. 2013- 01
Cape Cod Distillery LLC**

To all persons deemed interested in the Planning Board acting under Chapter 168 of the Code of the Town of Barnstable, Regulatory Agreements and the General Laws of the Commonwealth of Massachusetts, and the Zoning Ordinances of the Town of Barnstable, specifically Section 240-24.1 Hyannis Village Zoning Districts, you are hereby notified of a Public Hearing to consider Regulatory Agreement No. 2013- 01. That is Cape Cod Distillery LLC seeking to enter into a Regulatory Agreement with the Town of Barnstable to reuse the properties located at 411 Barnstable Road, Hyannis for a small scale distilling of alcoholic spirits and accessory retail sales of spirits distilled on-site. The property is zoned HG – Hyannis Gateway District and is shown on Assessor's Map 311, as Parcel 033.

The Regulatory Agreement seeks waivers from the Barnstable Zoning Ordinances, specifically:

- Section 240-24.1.8.A - Hyannis Gateway Permitted Principal Uses to allow a distillery.
- Section 240-24.1 8.C - Dimensional, bulk and other requirements, to allow the existing non-conforming setbacks for the proposed new use of the site.
- Additionally, applicant seeks any necessary relief from applicable parking requirements.

Ray Lang moves to open the Public Hearing, seconded by David Munsell, so voted unanimously.

Attorney Michael Ford in attendance, representing the Applicant. He explains the request for this regulatory agreement and gives a history. There is a need for several waivers for the use. They do not intend to encroach on any of the abutting yards, with the exception of the front. They have put in a request for parking with the Building Commissioner. Site Plan intends to approve once parking issues, ingress and egress, and landscaping issues are complete. They have to get in touch with the water company/fire flow issues.

John O'Dea in attendance. He explains the plans, and refers to a layout of the plan. Points out parking areas. Curb cut that directs traffic into parking spaces. Problem with existing utility pole in the parking spaces. Loading dock in rear. Entry to be put in front of the bldg., 15.4 ft. from property line, door on side. Reconfigure northerly parking lot, and landscape bed, drainage system, landscape bed along the bldg. The Island would be lengthened by 42 ft. which would eliminate conflict with the existing utility pole.

Rick Fenuccio in attendance. He explains the interior plan (colored schematic plan). Still awaiting information from the equipment providers. Will have public retail side, tasting, retail gift shop, and a classroom. Largest area to be designated for the storage/aging process. Catering kitchen area for offsite caterer to come in and do an event.

Exterior improvements explained. Non functioning malting vent to be added. Copper still will be located behind a large window. Landscaping plan explained. Refers to Landscape Design Concept. This plan was presented at Site Plan Review.

Attorney Michael Ford gives an explanation of the product. Single malt scotch, Massachusetts Moonshine and Old Barnstable Malt, to be aged 4 to 5 years.

Fire Dept. asked about the alcohol content, which will be 65 to 70% off the still and when in casks for aging about 63% and when bottled down to 40%. Deliveries will be bottles, yeast and water. One pick up approximately once a month. Passive use in terms of the manufacturing process. Will have tours through the facility, ending at the retail shop. He makes reference to Farmer Distillery under MGL Chpt 138, Section 19E.

They are working with Site Plan for a final design of parking and the busses. Some overhead wires are to be put underground. Still need the Federal and State license for the manufacture of the alcohol.

Felicia Penn questions the application submitted, (Exhibit A). Reference is made to page 3, item No. 3, No. 4, No. 11, and No. 12 not having correctly listed information and the repetition of the phrase see regulatory agreement throughout. This application is messy and incomplete. The Planning Board needs a complete application.

Attorney Michael Ford answers that the application is supposed to be in conjunction with the Town Manager and the Planning Board discusses/negotiates about the regulatory agreement.

Felicia Penn directs to the application, page 4, Item 15, third bulleted item that states "authorized modifications reasonably necessary for future development of the property, for purposes authorized under the Development Agreement (i.e. Distillery use). Further authorize the Town Manager to approve such modifications(s)." She references Chapter 168-5, C and D of the Town of Barnstable's Code which states that "The Town Manager may make minor amendments to the regulatory agreement recommended by the Planning Board". Why would this be requested now?

Attorney Michael Ford replies that this statement was put into the application to be all inclusive. Thinking this may add some agreement flexibility.

Felicia Penn, suggests that the application be completed as intended. This is deficient.

Matt Teague replies that some of the points in the application need to be amended/modified.

Ray Lang asks about the catering/food business? Will there be an outside business there?

Attorney Ford answers that it will be specific to this business/facility.

Ray Lang asks how many existing parking spaces are there? What will the size be? Will there be sufficient parking?

John O'Dea answers 23 spaces. They will be 10 x 18 with a 36 foot aisle width.

Attorney Ford points out the use itself does not require a lot of parking. Only with a bus tour or an occasional class. Not sure completely about parking yet. He refers to the parking table.

John O'Dea explains the parking table. Under 13 spaces are needed plus employee and warehouse storage, requirement is 17.1 spaces and we have provided 18.

Attorney Ford states Site Plan did not see an issue with parking spaces.

Ray Lang asks if there is any restriction for trucks in loading dock area?

Attorney Ford answers it would be a box truck for deliveries, not a tractor trailer truck.

David Munsell comments that it is good to see someone local trying to do something in this bldg. He did notice that there were some voids in the application itself. He does think that there is some more information needed.

Patrick Princi asks about the Site Plan Review meeting and Lt. Chase's comments about the distillery room, special wires etc. (Exhibit B, distributed at meeting) This seems like a safety issue. He asks for an explanation and what the Fire Dept. stated.

Attorney Ford answers that the distillery room may need different sprinkler requirements than the rest of the building. This is a work in progress.

Matt Teague is concerned that the location/curb cut here is tough, hard for a tour bus to get in here as well. He thinks not enough parking. The business operations/times need to be limited. He likes the concept. What about disposal of the mash? How will this be taken care of?

Matt Teague asks if there is any public comment? There is no public comment.

Attorney Ford answers that he could do a draft regulatory agreement. He refers to a layout line for showing how the tour busses would come in.

John O'Dea states that they are working with the Fire Dept. to make their radius requirement.

Matt Teague states that this is his concern, it being dangerous.

Attorney Ford clarifies that they will continue to work with Site Plan. There are no plans for a bar. The hours of operation will not be an issue, no night operation. Mitigation, not seeking great deal of relief, seeking a use different from the ordinance, whereby the trade off would be a new facad, redoing parking spaces, making an older bldg. better.

Ray Lang comments that there may be an expansion beyond the scope. We need to know the gallon amount. What would be the disposal of the product?

Attorney Ford states that it will only be the malt being made here.

Felicia Penn states that they would need some information/support on the quality of, pipe size and supply of water.

Attorney Ford answers that the Fire Dept. has asked this as well, and they will be meeting with them regarding this issue.

David Munsell thinks mitigation should be off the table.

Matt Teague asks for clarification about the regulatory agreement. He thinks it is a good investment for the town, but there are some safety issues with the parking.

Matt Teague entertains a motion to continue this Public Hearing to March 11, 2013, at 7:00 p.m., moved by Ray Lang, seconded by Felicia Penn, so voted unanimously.

**7:15 pm Public Hearing – Continued Third Modification to Regulatory Agreement 2007-02,
89 Lewis Bay LLC - Property at 89 Lewis Bay Road and
42 South St., Hyannis**

89 Lewis Bay, LLC has filed an application to modify and amend the existing Regulatory Agreement No. 2007-02, as modified. The applicant seeks to modify and amend the existing Regulatory Agreement authorizing the rehabilitation and expansion of a structure at 89 Lewis Bay Road with related parking at 42 South Street, Hyannis. The existing Regulatory Agreement granted relief from density, parking, setbacks, building height and lot coverage requirements to allow 42 residential units in ±60,000 sq.ft and ±20,000 sq.ft of ground floor space for medical offices and all other uses permitted in the Medical Services District. A modification of the Regulatory Agreement was granted to allow educational uses, including culinary arts, in 8,000 sq.ft of ground floor space. The Applicant presently seeks to modify the Agreement to construct an accessory one-story 12-bay detached garage of ±2,960 sq.ft. The accessory garage is proposed to be located at the rear west end of the parking lot on 42 South Street. The subject properties are addressed 89 Lewis Bay Road and 42 South Street, Hyannis, MA as shown on Assessor's Map 327 as Parcels 223 and 241. The property is zoned Hyannis Village Medical Services District and Harbor District. (Precinct 9)

- *Opened November 26, 2012, continued January 14, 2013, January 28, 2013, and to February 11, 2013.*

Attorney David Lawler in attendance. He hands out a revised landscaping plan (Exhibit C). He explains the amendments being proposed for this Regulatory Agreement. He will be handing in information as to how many units sold in the past 16 months.

Matt Teague makes reference to the proposed draft amendment, paragraph item no. 4, of the Substantial Amendment Request, which has a typographical error, the word ration should be ratio (Exhibit D).

Attorney Lawler states as he understands they will be replacing plants, not square footage?

Felicia Penn answers that she went by the location and that there is not much landscaping here. They need to enhance the landscaping here, no areas of interest.

Attorney Lawler answers that some of the plants are dormant at this time of year. They will relocate wherever it is recommended. He doesn't want to remove blacktop.

Matt Teague interjects that they should work with staff for something of substance, better plantings.

David Munsell confirms that there will be no plantings behind the garages, no room.

Attorney Lawler answers correct, they may put some rocks, lighting here.

JoAnne Buntich states that the information has to be on a plan somewhere in order for staff to put into compliance.

Matt Teague answers that it's better to do this as a sketch rather than a plan, less expensive to do this way. Security lighting needed.

Ray Lang mentions that the educational use/culinary school be omitted from the agreement.

JoAnne Buntich answers that the culinary school was never recorded. The Planning Board agreed to amend the first agreement, it was executed, but lapsed. It was not recorded, so it is not valid.

Ray Lang asks if these are the same garages as proposed earlier?

Attorney Lawler refers to the plan, (Exhibit E). There is a slight bump out, added gutters, downspouts, the size is substantially the same.

Matt Teague confirms that they will be increasing the aisle width.

JoAnne Buntich confirms the modifications to be made for finalizing: revisiting language in paragraph 4, getting a sketch plan for where bushes and trees will be located, the addition of security lighting.

Matt Teague entertains a motion to continue the Public Hearing until February 25th, at 7:15 p.m., moved and seconded by Felicia Penn, so voted unanimously.

Ray Lang confirms that there is also a tax document that needs to be provided to show payment of taxes as well.

Correspondence: Cape Cod Commission Minor Modification Notice dated January 25, 2013, for Cape Cod Hospital/Development of Regional Impact Decision/Revised Project.

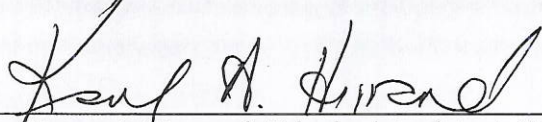
Future Meetings: Regularly Scheduled Meetings: February 25, 2013 and March 11, 2013 @ 7:00 p.m.

Possible workshop/discussion at 6:00 p.m., at the next meeting, February 25, 2013, in regards to Medical Marijuana.

Matt Teague entertains a motion to adjourn, seconded by Ray Lang, so voted unanimously

The meeting adjourned at 8:44 p.m.

Respectfully Submitted


by Karen A. Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on

April 8, 2013

Further detail may be obtained by viewing the video via Channel 18 on demand at
<http://www.town.barnstable.ma.us>

APPROVED

List of Exhibit Documents

- A. Application for Regulatory Agreement
- B. Letter from Site Plan Review, meeting of February 7, 2013
- C. Revised landscaping Plan
- D. Substantial Amendment Request (Draft)
- E. Regulatory Agreement Modification Plan as submitted

APPROVED