



BARNSTABLE  
TOWN CLERK

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**Town of Barnstable  
Planning Board  
Minutes  
March 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	Present

Also in attendance were Art Traczyk, Regulatory Review Planner and Steve Seymour, Senior Engineer, Growth Management.

**Public Hearing Regulatory Agreement:**

**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, and additionally, applicant seeks any necessary relief from applicable parking requirements.

- *Opened February 11, 2013 and continued to March 11, 2013 for continuing review.*

Matt Teague opens the Public Hearing.

Attorney Micheal Ford in attendance, representing the Applicant, John O'Dea, site engineer, Rick Fenuccio, architect and the Applicant Richard Wrightson also in attendance.

He gives a history/review of the previous meeting. They have filed an emendation (amendment) for the completeness of the application. They have included an estimated cost. The equipment cost is estimated



to be 1.4 million. A total estimate of 3 million 2 hundred thousand dollars. Copy of Purchase and Sale Agreement included as well.

Approvals necessary would be a Farmer Distiller, and Federal permit, which come first.

The water usage issue update, had fire suppression test with Fire and Water Dept., however could not do because of weather, rescheduled. Fire Dept. indicated that this bldg. would only need typically what an existing bldg. of this size would need.

They have revised the site plans. Site Plan Review asked for some changes. These have been redrafted see letter dated March 6, 2013. (Exhibit A). They have no issues with this.

Comments from last meeting to be addressed;

John O'Dea. He refers to the Proposed Improvements Presentation Plan (Exhibit B). Changes to the northerly parking lot, existing parking spaces are 9 x 18, same as on lot now. The aisle width is just over 27 ft. to ensure proper access for Fire Dept. He refers to Proposed Improvements Presentation Plan Fire and Bus Access (Exhibit C), showing the route of a fire truck into the lot, reflecting that the turn with the Fire Dept.'s ladder truck can safely make it in this specific route, front area is to tight.

Van handicapped space needed. Now 8 ft. aisle here for this. They have some overhang room for busses, trucks, etc. Southeast of the bldg. will have designated employee parking spaces here.

He refers to the Proposed Improvements Presentation Plan Truck & Car Access (Exhibit D). Truck and car space, and delivery truck access. There is an access door on the side of the bldg. A box truck would not be conflicting in any way.

Attorney Ford states that Site Plan Review does feel there is sufficient parking and will meet their requirements for bus, car, and safety access.

Attorney Ford makes reference to a question previously mentioned by the Board about employees for the business. He stated that the number of employees could go up to 4 or 5 employees in a 4 to 5 year period, depending on how busy business got.

They could be producing three batches per week. Total of water per day with one batch is 750 gallons, which is within the amount. 500 gallons discharge per day, about a pound. Some yeast.

Solid waste during manufacturing process is spent barely, which is non volatile. Easily stored in plastic containers. They are pretty sure they will be able to come up with a contract for removal of this. Good for animal feed.

Deliveries to the site. One pallet of barely, box truck delivery, once every 2 weeks. Site Plan did not want full trailer trucks. They are ok with box truck deliveries. Once every quarter for box truck bottle delivery.

Pick up of the product, nothing in first 6 months. Eventually 3 to 5 batches for pick up every 2 weeks.

Hours of operation, gift shop, maybe 9 to 6 or 9 to 5. Distilling process from 7 to 7. No night operations besides cleaning. No distilling at night.

Bus tours would be at designated times/hours, 10, 1, or 3:p.m. Chamber of Commerce would generally have tours during September or October.

Open House tours can be controlled. This would be designated for the distilling process. They do not see a parking issue with this.

Classes/workshop between the hours of 9 to 4 during the day, so they would know how many parking spaces to use for this particular day.



Distillery operation itself would not be able to make distilled liquors into wine, the licensing does not provide for that. They have no intention of doing this and it would be prohibited anyway.

This will not become a late night bar. Tastings would be conducted on some of the tours as thimble size portions. No cocktails/drinks/lounge for payment.

There will be no catering business. The kitchen is a small area for employees. They would use the kitchen if there was a class and they would then need a catering permit. Board of Health is ok with this.

Concerns with fire safety and the distilling process. A Canadian consultant has been contracted for these issues. They have provided information to the Fire Dept.

The parking spaces in front of the building have been changed for safety reasons with turning.

Upgrade to front of the bldg., landscape, drainage calculations found to be complete and accurate.

Enough parking spaces? 17 spaces now, we think we do.

This will be a family business. Mr. Wrightson's son is in Scotland learning how to do this distillery correctly at present.

Matt Teague asks if there is any public comment?

No public comment.

Matt Teague comments that he likes the revised parking on Southside of lot. He suggests signage or striping to keep traffic going one way. Infrastructure seems ok. If fire flow test ok by Fire Dept. He suggests landscaping plan would have landscaped areas irrigated.

Ray Lang states that Site Plan Review does not work with the Planning Board per say. He hasn't heard if there is a requirement for this kind of use from the Building Commissioner.

Attorney Ford replies that Site Plan Review is advisory to the Planning Board, he makes reference to the March 6, 2013, letter from Site Plan (Exhibit A). It is important input. The Building Commissioner is part of the process.

Ray Lang states that there is some indication/mention that over a period of time this business may expand and any major terms/improvements/modifications really have to come back to the Boards. There may be an issue with off site parking, as well as sufficient parking.

David Munsell questions that his concern is the 1926 layout of a public way, how wide is it? The road layout, the right of way, variable widths? Future plans for?

Steve Seymour replies that he doesn't know the exact width of Barnstable Rd. Potentially there could be some changes in the future, nothing presently.

Patrick Princi comments on the mitigation. Is this a high estimate, or low?

Attorney Ford answers on the high side.

Patrick Princi, asks about the hours of distilling, and the waste, emissions. Will there be any smells from this?

Skip Wrightson answers that it smells like a bakery. Beer emits CO<sub>2</sub> that will come out of the top of the building.

Felicia Penn asks how many entrances will be here? The main is the new entrance. Will the two other doors that are facing Barnstable Rd. be open to the public?



Rick Fenuccio answers, he makes reference to the façade (Exhibit E). The existing doors are to be replaced in kind.

The building will have 3 exits. 99% of entry will be from side.

Felicia Penn states that she is concerned with pedestrian safety and the disembarking from busses. She suggests some type of designation for walking pedestrians.

What was the preexisting water usage here? Any possible increase now?

Attorney Ford answers he doesn't know, this building has been vacant for 5 years. Will make sure this is part of the report re fire suppression results.

Felicia Penn asks about signage and compliance with the DIP.

Rick Fenuccio answers that the signage is a work in progress now.

Ray Lang asks, in terms of mezzanine and basement are they part of the foot print?

Rick Fenuccio answers that the mezzanine will probably go away because the stairs are 16 feet high and would need the space. This is still uncertain as to how much space.

Matt Teague refers to the Draft Outline of Regulatory Agreement For Discussion Purposes Only (Exhibit F) and changes to be made to it.

Felicia Penn references Page 1, 2<sup>nd</sup> Paragraph from the bottom, "Whereas, the Applicant is willing to commit itself to the development of the project substantially in accordance with this Agreement and desires to have a reasonable amount of flexibility to carry out the Development and therefore considers this Agreement to be in its best interests; and" she suggests it be reworded as follows: "Whereas, the Applicant is willing to commit itself to the development of the project in accordance with this Agreement and desires to carry out the Development and therefore considers this Agreement to be in its best interests..."

Matt Teague interjects that he would like clarification in terms of the vesting of the use of the property.

Attorney Ford replies that they had not implied any restriction regarding ownership and town approval of such.

Felicia Penn makes reference to Page 2, Paragraph 5, she asks for the meaning of this paragraph?

Attorney Ford replies that this paragraph can be stricken/eliminated and reworded as follows: "Now therefore, in consideration of the agreements and covenants contained herein;

Felicia Penn makes reference to Page 2, Paragraph 5, item number 3. "The Developer in accordance with Section 168-6. Elements of regulatory agreements, anticipates additional mitigation as may be deemed necessary will be addressed as flexible permitting is implemented. Schedule of implementation for said mitigation needs to be discussed" She asks for interpretation of this and the use of the word flexible.

Attorney Ford replies that there isn't a requirement for mitigation. He suggests that this be reworded to delete the word flexible.

Felicia Penn makes reference to Page 2, Paragraph 5, item number 5 "The Town acknowledges that this Regulatory Agreement will result in the preservation of year-round jobs from the proposed Distillery business to be conducted within the existing building..." to be reworded as follows: preservation to be replaced with creation.

Ray Lang makes reference to Page 2, Paragraph 5, item number 6, and if it should be deleted or edited?

Attorney Ford replies that it will be deleted.



Felicia Penn makes reference to Page 3, Paragraph 5, item number 7, "Parking – Applicant seeks any necessary relief from applicable parking requirements, as it pertains to size, location and number of spaces".

Matt Teague states that this should be re categorized to reflect the parking determinations as discussed/reviewed with the Planning Board and the Building Commissioner.

Ray Lang comments that item number 7 should also include specific language regarding parking if there is any expansion of the business.

Felicia Penn makes reference to Page 3, Paragraph 5, item number 8 and the landscape – to be specified, which would need to include irrigation, planting list, etc.

Felicia Penn refers to Page 3, Paragraph 5, item number 9, Curb cuts – needs to be defined.

Matt Teague suggests doing a curb cut as to not force right hand turn out of the entrance way to encourage a singular flow, signage maybe?.

Mr. O'Dea replies, yes they could do this.

Felicia Penn makes reference to Page 3, Paragraph 5, item number 10, lighting. Exterior lighting needs to be incorporated. Addressed by the DIP (Design and Infrastructure Plan), for security, pedestrian purposes. This is defined in the DIP.

Rick Fenuccio confirms this would be for site lighting, bldg. lighting to be attached, fixtures?

Felicia Penn refers to Page 3, Paragraph 5, item number 11, Community Character, anything that is reminiscent of the site should be added.

Matt Teague interjects that what is viewed from the rotary should be cleaned up.

Attorney Ford confirms changes in the wording for Page 3, item number 12, third bullet to be amended to read "Authorize modifications reasonably necessary for future development of the property, for purposes authorized under the Development Agreement (i.e. Distillery use) per the plans referenced and incorporated herein."

Paragraph 5, item number 12, fourth bullet to be deleted completely.

Felicia Penn makes comment about dumpster issues and hours of operation and the hours of delivery. Needs to be defined/added.

Art Traczyk states that Staff will work with the Applicant to define the agreement.

Patrick Princi makes a motion to continue this Public Hearing to April 8, 2013, at 7:00 p.m., moved and seconded by Ray Lang, so voted unanimously.

**Correspondence:** Cape Cod Commission Minor Modification Notice dated February 21, 2013, for ICE, Inc. Telecommunications Tower. *(Any member wishing a full copy of the document please contact the office)*

**Approval of Minutes:** Approval of January 14, 2013, Board Meeting Minutes


Felicia Penn moves to accept the January 14, 2013, Board Meeting Minutes as distributed, seconded by Matt Teague, so voted unanimously.

**Future Meetings:** Regularly Scheduled Board Meetings: March 25, 2013, and April 8, 2013 @ 7:00 p.m.

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

The meeting adjourned at 8:22 p.m.

Respectfully Submitted



by Karen A. Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on

July 22, 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**

**Exhibit A** – Letter from Site Plan Review, dated March 6, 2013 – File Reg. Agrmnt No. 2013-01

**Exhibit B** – Proposed Improvements Presentation Plan, dated Feb. 25, 2013 – File Reg. Agrmnt No. 2013-01

**Exhibit C** – Proposed Improvements Presentation Plan Fire & bus Access, dated Feb. 25, 2013 – File Reg. Agrmnt No. 2013-01

**Exhibit D** – Proposed Improvements Presentation Plan Truck & Car Access, dated Feb. 25, 2013 – File Reg. Agrmnt No. 2013-01

**Exhibit E** – Proposed Cape Cod Distilling Company Schedule of Drawings, dated Jan. 1, 22, 2013 – File Reg. Agrmnt No. 2013-01

**Exhibit F** – Draft Outline of Regulatory Agreement for Discussion Purposes Only/Emendation to the Application dated March 1, 2013 – File Reg. Agreement No. 2013-01

APPROVED