

**Town of Amherst
Zoning Board of Adjustment
Tuesday September 20, 2016**

ATTENDEES: R. Rowe- Acting Chair, C. Vars, R. Panasiti (Alt), J. Ramsay, K. Shea and S. Giarrusso (Alt)
Staff: G. Leedy- Community Development Director and Scott Tenney- Building Inspector

R. Rowe called the meeting to order at 7:00pm, introduced the board members and explained tonight's process as follows: The public hearing will be reopened to accept the requested documentation regarding water usage. Public comment will be allowed regarding the water issue only. The second case is an appeal of an administrative decision. After the cases are heard, the board will go into deliberations on both cases.

Old Business:

CASE #: PZ7677-071516: Arboleda Realty, LLC (dba LaBelle Winery), 340 NH Route 101, PIN # 008-052-000 in the Northern Transitional Zone. The Board will re-open the public hearing to accept new information specific to the impacts of water use for the proposed distillery and any additional traffic concerns.

Attorney M. Hollis represented the applicant. He reviewed the reasons this portion of the case was tabled and what information was being sought by the board. StoneHill Environmental Inc. developed a water report to address the requested information and it was submitted to the Town offices on September 16th, 2016.

Tim Stone of StoneHill Environmental Inc. in Portsmouth NH presented his report to the board. There was an original report submitted to the ZBA on August 11th that included overall water usage for the facility. This new report focuses on the distillery specifically.

He spoke with representatives of two distilleries to gather some information. He spoke with John Couchot from Boston Distillery and Brian Ferguson from Flagg Hill. He asked them about their water usage. They typically use less than 500 gallons of water a day for the washing process. For the distilling process, very little water is used. The mashing process uses more water- about 400 gallons per batch a couple times a week or less. He referred the board to the report which lists actual amounts of water used per year. The distillery will use 750-1000 gallons of water per day or less.

A lot of water would be used if it were used for cooling the coils and then wasted. LaBelle will use a closed-loop system so the cooling water won't be an issue.

The ground water in the vicinity flows towards the facility from Holly Hill and Winterberry. The facility will be down gradient of the water at the top of the hill so water usage will not affect residential pressure.

He included in the report information on wells in the area. There are 57 bedrock wells in the area: 40 in Bedford and 18 in Amherst. The average well depth is 461 feet. The average depth to the bedrock surface is 19 feet. The average depth to groundwater is 26 feet. He discussed average well yields which can be found in his report.

The board followed his presentation with some questions.

K. Shea noticed while looking at the data in the report that three neighboring wells have significant differences in depth. He asked if anything done on the property below will affect these wells. Mr. Stone said it is unlikely there will be any influence from the property below. The water flow tends to travel in a NE-SW direction in that area due to the bedrock.

Mr. Stone addressed one last bit of information in response to exhibits that were submitted by the public at the previous hearing. The daily water use at the current LaBelle facility is 1600-1900 gallons per day. The predicted amount given by the town resident was 144,000 gallons per day. There was no understanding of how the LaBelle Winery uses water in that estimate. Even the septic system design numbers are way overstated, but they put that in as a margin of safety. The actual estimate is that the facility will use less than 1000 gallons per day.

R. Rowe summarized that the proposed LaBelle facility would use about the same water amount as four residences. Mr. Stone said probably less than three, but more like one residence except when the mashing process is going on.

R. Rowe wanted to confirm that the operation of the distillery will have the cooling water in a closed, recycle system. Amy LaBelle addressed this question. She said they fully plan to use a closed loop system to cool the distilling tower. They also plan to use a heat exchange system to heat the distillery in the winter to avoid using fossil fuels to heat the distillery.

Public comment

None

R. Rowe closed the public hearing on this case at 7:32pm.

New Business:

CASE #: PZ7786-081916 - Friends of Young Judaea, Inc. d/b/a Camp Young Judaea, 9 Camp Road; PIN #: 008-059-000 in the Residential/Rural District. Appeal of an Administrative Decision by the Building Official to deny a building permit for the construction of four bunkhouses.

Ken Kornreich, owner of Camp Young Judaea and John Reed, project manager from KRD Builders represented the case.

Mr. Kornreich summarized for the board that they had pulled a permit to build two camp houses that was stopped last year because there is no real definition of what a camp cabin is because there is no real building code for summer camps. Scott Tenney, the Amherst Building Inspector therefore classified them as dormitories. The applicant came before the ZBA for relief which was granted. They have now filed a permit to finish the project for four additional camp houses and they are in the same situation as before with the permit being denied for reasons such as:

Ambient temperature

Insulation of the buildings

Sprinkler system

Fire alarm system

Accessible bath facilities

Mr. Reed further clarified the case for the members of the board as follows: They applied for permits in February and were denied because there is no building code for a single season summer camp. These cabins were therefore classified as dormitories. If they are classified that way, they have to meet all of

the criteria for a building you would live in. These cabins are designed to match the original ones that are there and are to be used only in July and August.

The new buildings are designed with no interior walls except a demising wall between the two halves which is fire-retardant. The interior finish of the exterior walls is exposed studs. There is no insulation. There are no glass windows- just screens. All of the window openings are egress- sized.

Mr. Reed continued, when we applied last year, Scott came up with criteria that did not meet the building codes and denied the permit. We came before the ZBA last spring and presented the case and this board agreed that it is a summer camp and not a year-round residence. We have now built those two buildings and want to build four more so are going through the same process again.

He then referred to a letter from Scott dated August 9th listing the five reasons for the permit denial.

Mr. Reed clarified that the egress from the cabins include two doors and all of the windows.

Regarding interior space heating, these cabins do not have insulated floors or walls or any heat source therefore the criteria cannot be met. This is why they came before the board to have these buildings classified as summer camps. (single season)

The energy code provision asks for R values of walls and windows. We don't have any walls or windows which is why that information wasn't provided.

In response to Scott's letter, Mr. Reed further addressed each issue as follows:

1. They will be using a fire detection system which is equal or better than putting in a sprinkler system. Each building will have its own system that dials directly to the fire department.

2. Each building will have ADA compliant toilet and transfer shower and the countertops are now in the plans and set at 34" high.

3. The window size is compliant for egress. In the plans they hadn't clarified that the screens are easily removable for egress. That has been clarified on the plans.

4. Completing the interior of the buildings for human occupancy is a subjective issue. We don't believe we fit in the dormitory classification and that this regulation doesn't apply in this instance.

5. There is no insulation, so there were no energy compliance provisions to provide.

Mr. Reed stated that Scott had provided a letter dated August 9th outlining the specific requirements that didn't meet the NH building code in the plans that were submitted.

Mr. Reed addressed these requirements as follows:

1. Interior spaces: He addressed this before stating there is no heating in the building.

The letter also explained the ZBA's authority to vote that the code has been interpreted incorrectly in this instance or that the code doesn't apply in this instance. The applicant is hoping for this result tonight. It's not that Scott is wrong; the code just doesn't apply to the camp cabins.

2. ADA specifications: We have ADA facilities in every building. Scott was concerned about ADA access/ a ramp. Ken Kornreich explained that rather than isolate any handicapped camper to a specific accessible bunk, the campers are kept with their age group and a movable ramp system can be used at any bunk where it is needed. Again, the ZBA can vote that the code doesn't apply here.

3. Residential Occupancy (Group R): This is not a true residential building. It is used two months out of the year specifically for sleeping and showering while camping. It is a limited use building and they would like to build it to match the other buildings that are there.

143 4. Group R sprinkler: The board has the authority to vote to accept a fire alarm system as an equally
144 good or better form of construction than proposed. A sprinkler system would have to be shut down for
145 winter so it wouldn't be effective anyway. Also they wouldn't have enough water flow to sprinkler all of
146 these buildings. This system has smoke, carbon and heat detectors and calls right to the fire
147 department.

148
149 The board members asked questions at this time.

150
151 K. Shea asked if there is electricity and conduit in the cabins. Yes. It's exposed.
152 He asked if the doors swing in or out. They swing out.

153
154 R. Panasiti asked which appliances the campers can use in the cabins. Hairdryers and radios are ok.
155 There are about five outlets in the bathrooms, but there are two circuits.

156
157 C. Vars went through the two new buildings today and assumes the Fire department and Building
158 Inspector are satisfied with the way they were built and also assumes the other ones will be built the
159 same. The applicant said yes and the same contractor is building them and these will be built the same
160 way.

161
162 R. Rowe asked if the new buildings were open for campers this summer. Yes.

163
164 J. Ramsay said this building falls between the cracks. He asked Scott if there's anything pending in the
165 code that addresses this.

166 Scott Tenney, Amherst Building Official, Code Enforcement and Health Officer said yes, there has been
167 talk in regard to this. International code counsel writes their book very vaguely. In the 2012 code cycle
168 there was proposed language, but it didn't make it into the code and he hasn't seen anything in the
169 2015 code proposals addressing this issue.

170
171 Public comment
172 None

173
174 Ken Kornreich mentioned that Scott recommended they do an enhanced fire alarm system. The Fire
175 department came down and they worked on it and came up with the enhanced plan.

176
177 R. Rowe stated that R. Panasiti will vote for D. Kirkwood.

178 **C. Vars moved and R. Panasiti seconded to enter deliberations. Vote: All in favor**

179 **C. Vars moved and J. Ramsay seconded no regional impact for the distillery. Vote: All in favor**

180
181 **CASE # PZ7677-071516- Use variance for distillery**

182 1. The Variance will not be contrary to the public interest.

183 K. Shea yes for all the same reasons stated before. Not contrary, and the water use won't be contrary to
184 public interest. True

185 J. Ramsay true for all the same reasons

186 C. Vars true

187 R. Panasiti true

188 R. Rowe true

189 5 True

190

191 2. The Variance is consistent with the spirit and intent of the Ordinance.
 192 J. Ramsay nothing was presented otherwise
 193 C. Vars other uses could be worse
 194 R. Panasiti true
 195 K. Shea true
 196 R. Rowe true
 197 5 True
 198
 199 3. Substantial justice is done.
 200 C. Vars yes this portion as part of the whole project and with the character of the neighborhood
 201 R. Panasiti agree
 202 K. Shea agree it is part of the whole package
 203 J. Ramsay heard testimony this evening and in the letter. He's comfortable there won't be a water
 204 impact
 205 R. Rowe true
 206 5 True
 207
 208 4. The values of the surrounding properties will not be diminished.
 209 R. Panasiti it's not a stand-alone operation
 210 K. Shea agrees as a full development of what's being proposed. His previous comments apply. Don't
 211 believe any use of water would affect the neighboring property values
 212 J. Ramsay true
 213 C. Vars true
 214 R. Rowe true
 215 5 True
 216
 217 5. Literal enforcement of the provisions of the Ordinance would result an unnecessary hardship.
 218 K. Shea the hardship is the special conditions of the property- where it's located. This is along a major
 219 throughway. That's a hardship. The owner stated her hardships. Water in relation to the topography
 220 means there isn't any real impact to the neighborhood. True
 221 J. Ramsay agreed and added what once might not have been a special condition is now because
 222 agriculture is not possible on that property
 223 C. Vars yes, it's a reasonable use of the property. The parcel is unique. It's the highest and best use.
 224 R. Panasiti this is part of the whole development and this portion uses the least amount of water. true
 225 R. Rowe true
 226 5 True
 227
 228 R. Rowe stated having passed all the tests, the variance has been granted.
 229
 230 S. Giarrusso expressed some concerns regarding water use based on the projections in the water report.
 231 Over the first three years of the operation the water usage is projected to increase significantly and he
 232 expressed that if we don't put parameters on the size of the distillery, the use could go up indefinitely.
 233 R. Rowe stated if they wish to expand the distillery they will have to come back before the board.
 234
 235 After some discussion, C. Vars said the ZBA has done the job they were asked to do, therefore there is
 236 no need for the board to continue with speculation.
 237
 238

239 **Case # PZ7786-081916- Appeal**

240 R. Rowe explained that a vote of 'true' is to override the zoning administrator on a regulation you don't
241 think applies to this case.

242 Discussion

243 K. Shea said it's a camp. The applicant did a good job illustrating what they are doing there.

244 R. Panasiti spoke to the president of the Campers Association in March. If they were to follow the IBC
245 rules, it would put these camps out of business because it's so expensive. The ruling probably needs to
246 be changed.

247 R. Rowe said Camp Young Judaea has done a great job dealing with camper safety.

248 J. Ramsay they've done a great job over there. This is proactive that they are renovating these buildings.

249 R. Rowe feels bad they have to go through this administrative process.

250 C. Vars at the last meeting a few camps were mentioned as having met all of the requirements. That is
251 because they want to be able to use the buildings year-round for rental groups.

252

253 K. Shea True

254 J. Ramsay said True though S. Tenny had no choice in the matter

255 C. Vars said the code wasn't interpreted incorrectly; the provisions of the code aren't applicable. True

256 R. Panasiti True and he commends everyone for working on the fire issue and for putting in the full
257 regulated and monitored fire alarm system

258 R. Rowe True

259 5 True

260

261 **C. Vars moved and R. Panasiti seconded to come out of deliberations at 8:22pm. Vote: All in favor**

262

263 Other Business:

264 Minutes: July 19, 2016; August 16, 2016, August 30, 2016

265 This item was tabled.

266

267 **K. Shea moved to adjourn at 8:23pm. R. Panasiti seconded. Vote: All in favor**

268

269 Respectfully submitted,

270 Jessica Marchant