

TOWN OF LANCASTER  
BOARD OF APPEALS  
Remote Meeting Via Zoom  
September 23, 2021

Present: Chair Jeanne Rich, Frank Sullivan, Matt Mayo, David Stadtherr, and Rob Alix.

Absent: Ryan Aldrich

Staff Present: Debra Dennis, Planning & Community Development

List of Documents:

- Agenda- September 23, 2021
- Special Permit Application -Kalon Farms 339 Seven Bridge Road
- Minutes: July 22, 2021, and August 26, 2021

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There being a quorum present, Chair Rich called the meeting to order at 7:01 PM.

Roll Call Attendance: Matt Mayo here, David Stadtherr here, Rob Alix here, Frank Sullivan here, and Jeanne Rich here.

**Minutes:**

**A motion was made by Rob Alix to approve the minutes of July 22, 2021. The motion was seconded by Dave Stadtherr. Roll Call Vote: Matt Mayo yes, David Stadtherr yes, Frank Sullivan yes, Rob Alix yes and Jeanne Rich yes.**

Matt Mayo said David Stadtherr's name is spelled incorrectly on line 88. **A motion was made by Matt Mayo to approve the August 26, 2021, minutes with the amendment. Frank Sullivan seconded the motion. Roll Call Vote: Matt Mayo yes, David Stadtherr yes, Frank Sullivan yes, Rob Alix yes and Jeanne Rich yes.**

**Public Hearing Continued:** Kalon Farms, Inc. (applicant) for a Special Permits to operate a brewery with outdoor service and consumption only as an accessory to the existing use of the property; an outdoor hospitality area is proposed to the west of the existing buildings on the property; the applicant proposes to have live entertainment three days/evenings of each week; the applicant also plans on having larger events (mud races, artisan festivals, fairs, etc.) periodically, pursuant to 220-8.2.C and 220-8.3.D. of the Town of Lancaster Zoning Bylaws. The site is in the Residential Zoning District at 339 Seven Bridge Road, Lancaster, MA, and is identified on Assessor's Map 30 as Parcel 128.

Chair Jeanne Rich read the public hearing notice into the record thereby convening the hearing.

*Present: Keith Kopley, Applicant and Owner*

Voting Members, Matt Mayo, David Stadtherr, Rob Alix, Frank Sullivan, and Jeanne Rich.

Chair Rich said at the last meeting they had ask Mr. Kopley for his Counsel's opinion. She said she asked if Town Counsel could attend this meeting or forward an opinion in writing to the Board. She said she asked Keith about a site visit which she went to on September 10<sup>th</sup>. He showed the area, new plants and what he wanted to do. She explained his Special Permit could not be granted on all his request because the restaurant and entertainment would require a variance application or zoning change.

Chair Rich said at this continued hearing a decision needs to be made. Your mud races, artisan festivals and fairs could be approved or disapproved under this Special Permit. Your request for the brewery, restaurant, outdoor hospitality cannot be approved under a Special Permit. If the Board would vote they would have to deny them.

Keith Kopley said the best path moving forward would be to just approve what can be and deny what the Board must. Chair Rich said to move forward they would have to do the site plan review and traffic study. Keith Kopley said he does not want to spend the money. He said he guesses it is a denial on every level.

Chair Rich asked the Board members if they have any questions, concerns, or their desire on the application.

Dave Stadtherr said if they move forward and get a denial then they must wait a couple of years before they can come back. Rob Alix said a withdrawal stops the clock and they can come back in a month.

Keith Kopley said he is unsure what to do with it at this point. He said if he can remedy the situation, he wants to do it. He said he needs to get a ruling either from Town Counsel or a judge. He said someone has to say yes or no, we check all the boxes. There has been a reluctant to getting a ruling.

Rob Alix said if you can give something that proves 50% is produced on site with a dollar amount. At that point you are in the agricultural space, and this goes away. Keith Kopley said once he provides this information it is a public record. The primary hay production outweighs anything there. We produce our hay which goes into the animals and then we sell the meat in the store.

Matt Mayo questioned how does fairs, mud races and festivals fall under a Special Permit. Chair Rich said under residential zoning under a special permit you can do outdoor recreation. It does not have anything to do with agricultural. The others are not allowed in a residential area and that is where a variance would come in. Chair Rich said a site plan review and traffic study would have to be done for the Special Permit for the fairs, mud races and festivals which Mr. Kopley does not want to do.

Matt Mayo said what Chair Rich said in order to get the permit signed off we want to have the reviews/studies. Chair Rich said the options are close hearing and vote, continue hearing but it does not seem like Mr. Kopley want to pay for the reviews. We can also ask Keith Kopley if he wants to withdraw.

Keith Kopley said we need someone to weigh in on the agricultural part of it. We say we are a farm and our attorney said we are a farm. He said we need a judgement on it. Chair Rich called Town Administer Orlando Pacheco and asked if he got any information from Town Counsel. He said there is no change from their previous guidance. Chair Rich said the Board has not received any opinion from Town Counsel. Orlando Pacheco recommended the Board not continue another month and hold a meeting sooner. Chair Rich said we need to continue or take a vote since Mr. Kopley does not want to withdraw. Orlando Pacheco said we can follow up on the agricultural portion. A percent of the revenues must come from the direct sale of the agricultural product. The Board decided to have a special meeting in two weeks on October 7th and get Town Counsel to get something back to the Board.

Chair Rich summarized the Board of Appeals is sitting on a Special Permit and if Town Counsel comes back and says you are farm then we do not have to do anything. If Town Counsel comes back and says you are not a farm, then we have a Special Permit application that you do not want to pay for the engineer review and traffic study. Mr. Kopley said we don't want to pay if we aren't going to be granted this. Chair Rich said if he is a farm then it would go to the Planning Board for site plan review. Orlando Pacheco said a determination needs to be made as to whether it is a working farm.

Chair Rich said if we continue this hearing to October 7<sup>th</sup> and we have both sides opinion then the Board can make a decision. Mr. Kopley gave an extension to October 7<sup>th</sup> for the public hearing.

Matt Mayo stated that traffic studies are important to the Board.

Joe D'Eramo said approval of this might set a precedence to any other farm in town. This is determining the status of other businesses in town that can do similar things. He said the only agricultural product on this farm he has seen is hay which is not a contributor to the brewery. Keith Kopley said once we prove we are exempt we can do these things. Anyone with five acres or more can do these types of things. He said if we have to leave town then he might have to sell and there could be townhouses there.

**A motion to continue this public hearing until October 7, 2021, at 7pm was made by Rob Alix and seconded by Frank Sullivan. Roll Call Vote: Matt Mayo yes, David Stadtherr yes, Frank Sullivan yes, Rob Alix yes and Jeanne Rich yes.**

**Other Business: None**

**Adjourn**

**A motion to adjourn was made by Frank Sullivan and seconded by David Stadtherr. Roll Call Vote: Matt Mayo yes, David Stadtherr yes, Frank Sullivan yes, Rob Alix yes, and Jeanne Rich yes.**

**The meeting was adjourned at 7:53 pm.**

**Respectfully submitted**

**Debra Dennis  
Planning & Community Development**