

TOWN OF LANCASTER  
BOARD OF APPEALS  
Remote Meeting Via Zoom  
January 27, 2022

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

Staff Present: Debra Dennis, Planning & Community Development and Jasmine Farinacci, Planning Director

List of Documents:

- Agenda- January 27, 2022
- Minutes: December 23, 2021
- Emails from Debra D'Eramo, Joe D'Eramo and Cara Sanford

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There being a quorum present, Chair Jeanne Rich called the meeting to order at 7:02 PM.

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

**Minutes**

Minutes- December 23, 2021-Matt Mayo commented that line 57 should say “down” not done. **Frank Sullivan made a motion to approve, and David Stadtherr seconded. No discussion. Matt Mayo yes, David Stadtherr yes, Frank Sullivan yes, Rob Alix yes, Ryan Aldrich yes, and Jeanne Rich yes.**

Chair Rich introduced Jasmin Farinacci the new Town Planner.

Chair Rich said the new town council is Miyares & Harrington. In attendance tonight is Christopher Heep and Ivria Fried.

**Public Hearing Continued:** Chair Rich read the following public hearing notices 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.

*Present: Keith Kopley, owner*

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

Rob Alix said one of the questions that came up is approving under use 220-8.2C. Does the Board have the ability as a Board to approve the outdoor seating area and the brewery? Christopher Heep, Town Counsel said there is a wide degree of discretion for the Board to determine based upon their knowledge of local conditions and other uses you have seen in town whether or not the outdoor seating area is properly described as an accessory use to the principal use under section C. If you determine the principal use is allowable the question would become is the outdoor seating area customarily accessory and subordinate to the principal use. First thing to do is to determine if the principal use is allowed and if it is determined it is up to the Board to figure out if the outdoor seating area is customary or subordinate to that use. Rob Alix asked about the brewery. Christopher Heep said the question pertaining to the brewery is if the majority of the ingredients are raised or prepared on that site.

Christopher Heep said you would have to make a finding that everything they are applying for is either retail sales of produce from an agricultural and related uses or outdoor recreation. As the principal use or if you could not describe some of them some pieces of it under those headings that the pieces would be accurately described as accessory to retail or to outdoor recreation.

The Board discussed Chapter 40 section 3.

Chair read the three public comments into record that were received from Kara Sanford that she received from Mass Division of Fisheries and Wildlife, Debra D'Eramo and Joe D'Eramo.

Keith Kopley the applicant commented that the primary use is agriculture which is the farm stand. It is special permits on incidental uses to that primary, so we are already exempt on. He said at this point he wants his attorney and the new Town Counsel talk prior to the Board voting because we are going backwards at this point. Chair Rich said she provided the new counsel with Mr. Kopley's attorney's letters from back in June and all the documents that the Board had received. She said she believes they also spoke with Attorney Eichmann. He stated at the last meeting everything led to the traffic study and after that the Board members were going to vote in a positive manner. Chair Rich said traffic study and engineering review are two things that this board requires of any application of this magnitude that comes before us.

Mike Hanson, Fire Chief wanted to make sure they are aware that Kalon Farm is under a cease and desist for operation except for the farmstand.

Chair Rich asked what the Board members wanted to do. She said she is ready to close the hearings and go to a vote. There was a consensus of the Board to move forward.

Rob Alix asked if the applicant could provide the Board with actual documentation to prove a major portion of the goods were produced on the farm. Keith Kopley said he did

not want to make the documents a public record. Attorney Heep said the document would likely need to be public information.

Attorney Ivria Fried said the applicant has filed the special permit since they do not fall within 40 section 3 for these particular uses.

**Frank Sullivan made a motion to close the public hearing. He amended it to close only the hearing for 220-8.2.C. The motion was seconded by Matt Mayo. No discussion. Roll Call Vote: Matt Mayo yes, Rob Alix yes, David Stadtherr yes, Frank Sullivan yes, and Jeanne Rich yes.**

**Frank Sullivan made a motion to deny the special permit for Section 220-8.2. C. David Stadtherr seconded the motion.** Matt Mayo commented that all the requirements for the special permit have not been fulfilled. Chair Rich said she is a proponent for businesses, but the Board has to follow the zoning. If they cannot meet the requirements of the special permit and the Board cannot prove it, we have to think about the town as a whole. **Roll Call Vote: Matt Mayo yes, Rob Alix yes, David Stadtherr yes, Frank Sullivan yes, and Jeanne Rich yes.**

**Frank Sullivan made a motion to close the public hearing on the special permit under 220-8.3 D. David Stadtherr seconded the motion. No discussion. Roll Call Vote: Matt Mayo yes, Rob Alix yes, David Stadtherr yes, Frank Sullivan yes, and Jeanne Rich yes.**

**Rob Alix made a motion to approve with some conditions such as number of days and hours of operation such as 9am to 8 pm.** Chair Rich questioned if we approve these other events, we cannot approve them with the outdoor sale of food or beer or have entertainment.

Attorney Heep said if you are going to approve it with conditions, he suggested to the board that they include a pretty clear itemized list of what it is they are approving. If it is just mud races, say it is just for mud races. If it is for something else say that other thing too so that you are not accidentally approving other things that you might not have contemplated based upon the application.

Matt Mayo said festivals can be a broad term. Frank Sullivan said if we approve, we have to be very specific with all the details. **Rob Alix withdrew his motion.** Frank Sullivan said it is hard to be specific with events if we do not have a list of events. Matt Mayo said we can discuss perimeters such as time frame, visitors, and parking.

Chair Rich commented how can you have a mud run but you cannot have any entertainment, sell your beer or food. Matt Mayo said it is not up to the Board to strategize that. The Board will discuss this further on February 24, 2022.

### **Discussion**

Discussion - Dennis Hubbard and Eric Jakubowicz potential applicants for open position on Board of Appeals

Chair Rich said we have a two-year seat and a one-year seat open due to resignations. Eric Jakubowicz and Dennis Hubbard have both applied. **Matt Mayo made a motion to send a letter to the Select Board recommending Eric Jakubowicz be appointed to the two-year seat and Dennis Hubbard to the one-year seat. Frank Sullivan seconded the motion. No discussion. Roll Call Vote: Matt Mayo yes, Rob Alix yes, David Stadtherr yes, Frank Sullivan yes, Ryan Aldrich yes, and Jeanne Rich yes.**

Ideas for Planner to work on-Chair Rich said if the members can put together a list of any issues with the bylaws and contact her and let her know. Jasmine Farinacci said she is open to any suggestions. Rob Alix said an editable form application would be helpful.

Jasmine asked if a director's report would be helpful to the Board. Chair Rich said that would be good.

Dennis Hubbard introduced himself to the Board and said he is looking forward to working with the Board in the future.

### **Adjourn**

**David Stadtherr made a motion to adjourn. Frank Sullivan seconded the motion. No discussion. Roll Call Vote: Matt Mayo yes, Rob Alix yes, David Stadtherr yes, Frank Sullivan yes, Ryan Aldrich yes, and Jeanne Rich yes.**

Respectfully submitted

Debra Dennis, Office Manager  
Community Development & Planning