



TOWN OF JEROME, ARIZONA
POST OFFICE BOX 335, JEROME, ARIZONA 86331
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MEETING OF THE TOWN OF JEROME

BOARD OF ADJUSTMENT

DATE: Thursday, August 14, 2014 TIME: 6:30 P.M.

PLACE: JEROME CIVIC CENTER, 600 CLARK STREET

MINUTES

ITEM 1: CALL TO ORDER/ ROLL CALL

Chair Carol Yacht called the meeting to order at 6:30 p.m.

Board members present: Gary Shapiro, Carol Yacht, Suzy Mound, Chris Babbage and Ron Richie

Staff Present: Candace Gallagher, Town Manager, Joni Savage, Minute Taker

ITEM 2: APPROVAL OF MINUTES: July 17, 2014 Meeting Minutes

Gary Shapiro made a motion to approve the minutes of July 17, 2014. Second by Suzy Mound. The motion passed with 4 ayes, 0 nays and 1 abstention from Ron Richie who was not in attendance at the July 17 meeting.

ITEM 3: PETITIONS FROM THE PUBLIC –

No petitions were received from the public.

ITEM 4: APPEAL OF ZONING ADMINISTRATOR'S INTERPRETATION – The Board will reconvene to review an appeal of the Zoning Administrator's determination that a microbrewery at 728 East Avenue in Jerome (The Jerome Keep Bed and Breakfast) would not qualify as a home occupation. The Board may uphold or reverse the interpretation or request additional information, which may include a site visit or scheduling of another hearing.

Chair Yacht started with an explanation of the how the meeting would go, first a discussion with the board, a small presentation from her and then public presentations of no more than three minutes. She referred to the material in the packets from the meetings that happened prior to their meeting of July 17th, numbered 1 thru 16 and 1 thru 49. She began by starting on page 3 of 49 of the P & Z meeting of March 5th of 2014 minutes. According to the Zoning Administrator, she cited, according to State Laws advertising as a Bed and Brew is essentially selling alcohol. And also the state license will allow onsite sales with on or off site consumption. Next on page 9 of 49, referring to the Council minutes from the meeting on April 8, 2014. Mayor Check had concerns about this being considered a home occupation. She does not feel that it would be a residential use with that quantity of production. In 2008 there were workshops for the vineyard and on May 13, 2008 Mr. Maynard Keenan advised that the property is not open to the public; he further stated he would put that in writing. Continuing on with the workshop on page 16 of 49, the Zoning Administrator had said, "It came as an occupational use and the vineyards were approved in 2003 for private use." Carol Yacht read according to Jeanne Trupiano, (Zoning Administrator in 2008) winery as presented does not comply with the definition of home occupation, further stating the R1 zone does not allow for such uses as wineries or any similar used



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pursuant to Article 5. Chair Yacht read information she found online at the Arizona Liquor Board website and read, "A residential liquor license may negatively impact a neighborhood." Equally Jeanne Trupiano, the previous Zoning Administrator and then Rebecca Borowski, Zoning Administrator, both ended with the same consistency about what a home occupation is. The expectation is to follow the ordinance and basically that is what I would like to share with you. She then asked how each Board member would like to address this. Chair Yacht then read Item 4 from the Agenda again to reiterate the reason for the meeting.

Mr. Babbage said that he does not believe this qualifies as a home occupation. He thinks that it is a manufacturing business.

Vice Chair Shapiro stated that he thinks the volume and State Licensing goes beyond home occupation as well. It is difficult to allow the amount of possible volume being produced and possibly selling from their home. Our decisions do go with the property and I am reluctant to see it as a home occupation.

Mr. Richie was wondering about clarification of liquor license and quantity of gallons per year.

Ms. Gallagher confirmed it was 5000 gallons a year minimum and that's it.

Ms. Mound was in agreement with the Zoning Administrator that this does not qualify as a home occupation.

Mr. Babbage said the way this liquor license is written does allow for retail sales in a residential area and you cannot have retail sales even though the people said they wouldn't sell there is no way that we can monitor that.

Chair Yacht opened the discussion to the public.

Margie Hardie, a resident of Jerome, referred to three comparisons made to Mr. Keenan in the Letter of Appeal and believed that the comparisons were not possible. She continued by saying that she had spoken with Mario Troveso of the Arizona State Liquor Department and he said that residential micro-breweries in Phoenix are non-existent, and that inspections can occur at two and three o'clock in the morning. Furthermore, the liquor board does not issue liquor licenses in residential neighborhoods. She had also spoken with Mr. Newel at the Yavapai County Health Department who stated that if glassware were used in the service of alcohol at the Bed and Brew, they would require a Health Department license and inspections. This is not what goes on in a residential neighborhood.

Jeanne Welch a resident who lives next door, spoke about the noise she has heard since 1992. She said she could deal with the noise now, but not if it were a bar. She feels it is a one way street and doesn't need more traffic and noise on the street. She questioned the issue of minors being served, parking and liability insurance.



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Jane Moore, a resident of Jerome, has talked with several people who worked on the Zoning Ordinance and it was never envisioned that a home occupation would either have a license to serve alcohol or to have retail sales. She believes this could be very precedent setting if this is granted; in many respects to the serving of alcohol in residential neighborhoods and selling of other goods as part of a bed and breakfast operation.

Jaime Williams, the appellant, stated that they never intended to run their operation like a bar. The brewery license is primarily for our own production to provide complimentary libations to guests only. That would comprise of one bottle per person per night in their room. We agreed that we would not allow additional retail sales above and beyond what would be provided in the room. We are well aware of insurance requirements, liability issues and inspections. There would not need to be the requirements of local authorities to do room checks unless they felt it was necessary for some reason. The comparisons to Mr. Keenan's winery were specifically to outline the license itself. His operation is very different than ours. He is zoned R15 exactly the same as our home. The Town has already given precedence to the fact that alcohol manufacturing can be permitted in a residential zone. That is why we used that as a comparison in our appeal. There were changes made in 2008 May minutes that very specifically indicate it was a home occupation winery and was approved. Later the Zoning Administrator came back and gave a reason that it was not, because of the employees he would be hiring. Not for any other reason but for the employees. The reasons we were given were disrupting the residential neighborhood, the smells and inspections. Those were not brought up in the 2008 decision. I have requested additional documentation from when the Town of Jerome did actually approve the ability to apply for a winery license. There is no documentation, according to the folks who were trying to get me documentation; in June 2008 there was a discussion with the attorneys about viticulture ordinances, which is separate from the license itself. There was a license issued in December of 2008 and no decision from the Town of Jerome on whether or not he could apply for that license. Yet he did it, he has it, it's current and he is currently manufacturing wine on his property. So that was reason for the comparison, not to compare ourselves to the vineyard, but specifically about the alcohol manufacturing, which we see as legal precedent. This is our craft and isn't any different than someone making pottery, making jewelry or sewing on their property. There hasn't been a strong comparison on the Boards part to really look at what you are already allowing. You are already allowing alcohol manufacturing in a residential zone. We do not want to become a bar. Our intention is to brew for our guests and possibly sell some to the bars. I want to go on the record of being very clear about that

Mr. Babbage said you express yourself very well and I don't think there is any confusion about your intentions. Your rebuttals were very clear. Even though the winery and brewery are not the same, even if they were, two wrongs don't necessarily make a right. And it never came to this board so that to me is a moot point.

Ms. Moore stated again this is very precedent setting and commends the applicants for what they are saying what they would like to do, however, this is being compared to something else that was approved. The next person that comes along and gets the same license can brew more under this license. They can also serve



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more alcohol than what they are saying and also have people come in to taste the beer. She thinks that just because they (the Williams) might be good neighbors that the next person that comes along may not be.

Darryl Williams, the appellant stated that precedence has already been set. We made our intentions clear. If the police have the need to check us out they can, we are not trying to hide anything. We are trying to distribute beer uptown. We want our guests to have samples, if they can't I can understand that but I still think that having a place that is just distributing is no different than what Maynard is doing and anybody can go down to his house. It's the same thing, he could have tastings at his house. How can you say that he isn't, he has guests over, you can't say what he's doing in there.

Ms. Mound said that Maynard agreed to the Town that he would not have the public coming in to his residence. If you can prove that he is violating that then the Town needs to know. He specifically agreed that was not the intention to ever have the public coming in to purchase or taste.

Darryl Williams said that we could agree to that to if that were a stipulation. We will not give our guest's free samples; we will only sell to the bars if that is the agreement that we have. He still believes that Maynard Keenan has people coming over and no one knows if he is giving tastings or not.

Ms. Gallagher, Town Manager said that she has been doing research and has had conversations with Mr. Keenan. He was approved for the Winery License in May of 2008. There were stipulations that he would not have employees and he does not have employees right now. He is not selling the liquor on the premises and he is not advertising for consumption on the premises.

Chair Yacht added. There is a difference between private consumption and sharing with friends and family versus having paying guests.

(There was a discussion between Carol Yacht and Ron Richie about the merchants serving wine on Art Walk.)

Ms. Hardie spoke again mentioning that the Board of Adjustment is a quasi-legal board and hearsay is not a qualified piece of evidence to the Board. She talked about the quantity of production of the beer, and what are the goals of the appellants for their micro-brewery.

Mr. Richie made the comment that he is a brewer himself and really appreciates the micro-breweries. Not all micro-breweries have a license or a tasting room.

Jaime Williams stated the ultimate goal for them is to eventually have something larger, but not at the house. She asked the Board, if they took Bed and Brew out of the concept, with no distribution on the premise would they be able to have their license approved.



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Jaime Williams stated again that the Boards concern was with the home occupation and retail sales. She asked if they were just brewing, barreling it and distributing it to the local retailers, what would be the argument with that.

Chair Yacht stated again that she is trying to stay with the home occupation issue. They already have the Bed and Breakfast and that's not really the issue. She wants to stay focused on the home occupation of brewing. She announced that public discussion would be stopped in ten minutes.

Ms. Welch brought up agreements that have been made in the past that they have not kept, so why would they keep any agreements they make.

Vice Chair Shapiro reminded the Board the actual reason they were there was not to adjudicate the situation, but to confirm or disagree with the Zoning Administrator's interpretation. If we disagree then we would need to address the issue beyond that. He wanted to remind the Board and public that their main point was to agree or disagree with the Zoning Administrators interpretation.

Darryl Williams agreed with Gary and stated we are here because of the three things brought up by the Zoning Administrator and all of those are well combatted in our appeal. I am not talking about parking. I have nothing further.

Jaime Williams stated again the focus of the Zoning Administrators interpretation got lost. If the Board were willing to focus on the reasons Rebecca gave and then look at our appeal, on how we address those things and then that would be the best way for you to make your decision.

Mr. Babbage stated that the Zoning Administrator was asked to make a determination and submit a plan for micro-brewery as it conforms with the Jerome Zoning Ordinance definition of home occupation. The Zoning Administrator found three areas that she thought were a problem. That does not mean that we can't find five others. You rebutted them very well, especially two of them but that doesn't mean that our board can't find another reason.

Lisa Whitaker, a resident of Jerome, said with comparing this to what Maynard did, it took quite a bit of time to develop an ordinance to legitimize what he was doing. And that is what he is operating under now. It was very long and thought out.

Jaime Williams stated that he, Maynard Keenan, obtained his license in December of 2008 and that ordinance wasn't adopted until 2010.

Chair Yacht closed the public comments.



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Suzy Mound read a statement. Jaime and Daryl it is apparent that you both are well liked by many of us in Jerome and we all want to see you succeed. Many residents have spoken and you have listened to their views both for and against the Bed and Brew concept in the residential neighborhood. I found the Bed and Brew concept does exist and found that there are nine Bed and Brews located in seven different states. In each instance they are located in commercial zones. In the Jerome zoning ordinance a micro-brewery does not fall within the definition of home occupation, because it would change the residential character of the neighborhood. Therefore, I must encourage the Board to uphold the Zoning Administrator's decision that a micro-brewery is not an allowable home occupation. Given that this business concept is a growing popularity I would like to see you both pursue the Bed and Brew concept in Jerome's commercial zone. Suzy Mound read, I would like to make the motion to uphold the Zoning Administrator's interpretation that the micro-brewery located at 728 East Avenue would not qualify as a home occupation. Do I have a second? Seconded by Chris Babbage. The motion passed with 4 ayes, 1 nays and 0 abstention.

Ron Richie encouraged the appellants to pursue this by possibly going back to the Zoning Board, with an amended project. He told them this was not the end of the line.

Darryl Williams stated he felt they had been steered in different directions.

ITEM 5: ADJOURNMENT

Chris Babbage made a motion to adjourn, Second by Carol Yacht. Motion passed unanimously. Meeting Adjourned at 7:16 pm.

Respectfully submitted by Joni Savage on the 4th day of June, 2015.

Approved: Carol Yacht Date: 6-4-15
 Board of Adjustment Chair, Carol Yacht

Attest: Gary Shapiro Date: June, 4 2015
 Board of Adjustment Vice-Chair, Gary Shapiro

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