

**Town of Milford
Zoning Board of Adjustment
May 2, 2019
Case #2019-07
Ogie Brewing, LLC
Special Exception**

Present: Steve Bonczar, Chair
Michael Thornton
Joan Dargie
Rob Costantino
Wade Scott Campbell
Karin Lagro, Alternate

Lincoln Daley, Community Development Director

Absent: Tracy Steel
Laura Dudziak, Board of Selectman Representative

Secretary: Peg Ouellette

Ogie Brewing, LLC, for the property located at 12 South Street, Milford Tax Map 26, Lot 157 in the Commercial District is seeking a Special Exception of the Milford Zoning Ordinances per Article V, Section 5.05.2.A.4 to permit the manufacturing of craft beer products associated with a low-volume nano brewery.

APPROVED 6/20/19

Motion to Approve: _____

Seconded: _____

Signed: _____

Date: _____

Steve Bonczar, Chair, opened the meeting and introduced the Board members. He informed all of the procedures of the Board. He read the notice of hearing and invited the applicant to present the case. William Ogert, representing Ogie Brewing. He said it was a low volume nano brewery making 2 to 4 barrels per week. A barrel is 31 gallons. Seeking a special exception because of manufacturing terminology by State of NH. Actual process of brewing beer was closer to cooking than manufacturing but called manufacturing to adhere to the federal definition. Because of that terminology a special exception was required.

S. Bonczar said they were using an existing building.

W. Ogert said yes.

S. Bonczar said they had the layout of the facility. How many would it seat?

W. Ogert said projected 35 to 40. Seating in half of the building and standing counters in the other side to facilitate flow of traffic to the service counter.

J. Dargie said they weren't going to be manufacturing.

S. Bonczar said they were going by the State rules.

J. Dargie said it didn't matter how many people came in.

S. Bonczar said he was trying to understand the impact.

M. Thornton asked the maximum occupancy.

W. Ogert didn't have that from the Fire Marshall yet but based on the previous restaurant he believed it will be under that.

J. Dargie asked how much room manufacturing would take up and how many people doing it.

W. Ogert said it would be himself there and maybe a couple of employees for sales. Actual brewing will be by himself. Maybe an assistant at some point.

J. Dargie said it was retail. That wasn't what they should be looking at. Change was already approved by the Planning Bd. They should only be looking at manufacturing. Applicant said manufacturing would only be him. How much space would be manufacturing?

W. Ogert said manufacturing would be just the line at the kitchen area. Cooking vessels, hot water tank, something where grains are steeped which were under the vent hood, final preparation, hand-held bottling station. He pointed out fermenters. Picture showed more on it than he intended to use.

J. Dargie asked about a bottling area.

W. Ogert pointed that out.

S. Bonczar asked the State definition of manufacturing as far as amount.

W. Ogert said 200 barrels a year. He projected 200 to 300.

M. Thornton said initially.

W. Ogert said that facility would not support expansion.

R. Costantino asked if he was moving there from somewhere else.

W. Ogert said no.

J. Dargie mentioned deliveries.

W. Ogert said bi-weekly deliveries of grains and other ingredients. Other was allowed by State. Between bottles samples on site and kegs to local retailers, will be light.

L. Daley asked applicant to go through the process and explain it to the Bd.

W. Ogert explained the steps in the brewing process. He said a byproduct was spent grain. Average about 200 to 300 lbs a week. Most responsible brewers will look for environmentally feasible disposable.

Animal feed was mentioned. Conservation Commission said he should look for local farmers. If not, he will have to get a disposal company to take it off site.

L. Daley asked if it would be stored in a vessel inside or outside.

W. Ogert said to use it for animal feed or compost you have to keep it fresh. It would be picked up by farmers two days after brewing.

S. Bonczar asked how much and where on the premises would ingredients be stored.

W. Ogert said grains would be in a dry area in the basement. Hops need to be kept cold and in the large commercial refrigerator. Yeast also in the refrigerator.

M. Thornton asked if the storage in the basement was always dry.

W. Ogert said yes. They could be hand trucked upstairs. He could get a palletized container which was sealed.

M. Thornton asked if they dewatered the waste.

W. Ogert said it was moist. Grain absorbed a large percentage of moisture. Mash equipment was very efficient in removing most of the moisture. Most farmers lay them out in the sun for a day before feeding animals.

J. Dargie asked about odor.

W. Ogert said the grain smells like cereal. If it was left to set and rot it would smell. It doesn't smell when you mash or boil it. He had samples to see what it looked like and smells like. Have to be diligent.

J. Dargie said not so much waste, but the process itself. If you go by Budweiser, it had a smell. She asked if there were abutters upstairs.

W. Ogert said there were but ventilations stack lies about the roof line. The smell of the boil was short duration and dissipates quickly. You would smell it when it was boiling, but you can smell a fryolator in a kitchen.

S. Bonczar commented it depended on how hoppy.

W. Ogert said his beer was less hoppy. More of a grain smell,

M. Thornton said he had lived next to Budweiser in Columbus, Ohio. The smell was more on cloudy days. It was not unpleasant

K. Lagro said this was not that volume.

M. Thornton agreed. Applicant was doing batch operation.

W. Ogert said yes.

S. Bonczar said there was a limit to what he could do in this location. If he was so successful he would not be able to operate out of this location.

W. Ogert said what he was proposing was nano by the State but in the industry it was not big enough to be considered a nano. Expansion would probably put him into nano range, but would require a secondary location and whole new system.

L. Daley said part of the Planning Bd. conditional approval was to work out details of permitting process with the local water utilities director.

M. Thornton said it was important because there was some rejection you would not want to use as beer in the washing, etc.

W. Ogert said that would be the dead and dormant at the end of fermentation. Organic. Most wastewater facilities won't have an issue with it. What is left over after the boiled is small and organic. He knew of some breweries where wastewater had issue with the solids, but it came down to having a holding tank to let the solids settle.

M. Thornton said one of the water treatment plant concerns was trucking and that came down to being dewatered

S. Bonczar asked for any other questions.

W. Ogert said look at the handouts.

There being no other questions from the Bd. S. Bonczar opened the meeting for public comment.

Tom Quinn, Attorney representing Buttermilk Falls, an abutter, came forward. He said his client was not opposed to the projected use of the property for a nano brewery. It had been discussed that the primary concern was the potential odors possibly generated. His client owns 1 Nashua St. Proposed use of that building including a restaurant and a second story open deck. Located across the alley from this building. Very concerned with odors. He looked at the ordinance and standards in Article 10. Article 2 also came into play, 2.04 says no residential, business, commercial or industrial use should be permitted to cause any undue hazard to health or safety or which is offensive to the public because of noise, vibration, noxious odor, smoke or other similar reason. It was noxious odor. In addition to requirements in Article 10, have to deal with that. His client's concern was potential odor. Difficult to deal with only one level. As stated before the Planning Bd. some people think it smells like baking bread. Others think it is like rotten eggs. There is a distinctive odor and if you are near some of them, it is not pleasant for some.

S. Bonczar said they weren't talking about putting Budweiser on South St.

T. Quinn said it was a different size.

M. Thornton understood the concerns. He heard two to four hours or cooking a week. Was that objectionable?

T. Quinn said it was if you were eating at a restaurant. He heard potential 2,000 barrels a year. There were ways to insure that facility doesn't produce (obnoxious)noxious odors.

S. Bonczar asked what was their definition of (obnoxious) noxious.

T. Quinn said anything that smelled like rotten eggs. He said he had with him an engineer familiar with these kinds of issues and techniques for alleviating odor. There were systems in place to insure this didn't happen. Not just talking about his client's property; it could affect the Oval in general. Residences, restaurants and other places with outside seating.

S. Bonczar said the smell of a fryolator could be smelled on the Oval. Would his client consider that obnoxious?

T. Quinn said in some circumstances, but difference is that this required a special exception. You had to find that criteria had been met.

S. Bonczar said he was bringing up obnoxious odors.

J. Dargie said it would be a good idea to find out the definition. She asked if he could deal with 2,000 barrels a year. It was 4 a week.

T. Quinn asked if they were limiting him to that.

S. Bonczar said they could. That came out of definition of nano brewery.

J. Dargie said they could put a condition on it.

M. Thornton said maybe the consideration of the operation that produces odors be moved to times when the deck would not be in use and smell would not be a problem.

T. Quinn said that would be helpful. He had someone prepared to speak to the technology re odors. They were not opposed to the use. But he proposed they table the application and have the system designed by someone and come up with plan for emissions and waste. It may or may not be malodorous the day you take out of the barrel. But, if you let it lay around.

M. Thornton said it was a good idea to have immediate removal as a condition.

S. Bonczar asked what was a definition of immediate.

M. Thornton said it did not make a smell.

T. Quinn said if they were not going to table it and get expert input they needed them to make a condition that solid waste is not stored outside.

J. Dargie said that wasn't a problem. Having an engineer hired to do that seemed a little extreme.

M. Thornton said that would be a good way to prohibit by additional expense that would prohibit a new sole proprietor to come into operation.

T. Quinn had no idea what that would cost. If the permit were issued and it went into operation and produces obnoxious odors, then what do you do? How do you test for that? How do you enforce it? The key was ensuring it didn't happen in the first place.

J. Dargie said with a restaurant dumpster there were noxious odors. It was not commented that it would be stored outside at all. She didn't believe any there was any outdoor facilities proposed on this.

T. Quinn said there was a dumpster and asked if they would agree to a condition that it all be stored inside.

J. Dargie and M. Thornton agreed.

S. Bonczar said they didn't want to be agreeing to anything at this time.

K. Lagro said they said that they would bring the compost to animals.

J. Dargie said the Planning Bd. already suggested he find farmers to take it.

T. Quinn said that is common solution, but where is it stored and for how long before it goes.

J. Dargie said two days was mentioned.

W. Ogert said it could go a week in a sealed container. Plans to start brewing on Friday and Saturday – maybe Sunday. Brewing process takes a long time waiting for water to boil and mash to steep. Boiling would more than likely be done by noon. Would like to see those grains gone by Monday or Tuesday because if he was going to brew again on Friday or Saturday he would need boiler for the next batch.

S. Bonczar asked where the vents were currently.

W. Ogert said on the rear and come to maybe three ft. above the roof line.

M. Thornton asked about when the filtration system would be available.

W. Ogert said he'd have to see what was available for the vent hoods that were in place. Designed by a professional brewing company. A lot of nano breweries operate with a system that takes the steam and turns it into a vapor and drops it into a bucket.

M. Thornton commented it was like a distilling process.

W. Ogert explained how it was done. The rotten egg smell mentioned was typical of large breweries like Budweiser. It was not the brewing process. It was waste water management systems. They have to have their own waste water treatment plants. At this volume he would not have that. If he had rotten egg smell he would be throwing a batch out.

M. Thornton said his customers would object to odors.

L. Daley asked him where the ventilation system was.

W. Ogert said you would have to look into building. Pointed on the slide to what might be the copper chrome stack.

M. Thornton read article provided but said that the smell not there in early days of the brewery but only when the waste products were used to generate electricity and heat, starting in early 2013.

T. Quinn said that was not the only source. If the mash was being removed immediately, less of a concern. From his understanding. Vent piping, to be effective, has to be above the roof line. At a minimum it could be extended from the lower roof to the peak of the roof. The roof line is directly opposite the deck.

M. Thornton said it wasn't expensive to do it.

T. Quinn said that was his point. Not opposed to this. Just want responsible conditions.

S. Bonczar asked about the scale of this operation to Martha's Exchange in Nashua, which was a brewery in downtown Nashua with businesses all around it.

W. Ogert said they have been in operation for years and never had an issue. They do more than double. Same process. Not sure what their ventilation was. They might use condenser stack. They had more than double grains and boil off more than double.

T. Quinn said that was his point. Technology exists to be done to mitigate it. He thought the requirement was that it should be done.

R. Costantino said it was mentioned there was a way to quantify how bad the smell was. Did he have knowledge of that?

W. Ogert hadn't heard of that. Could try to do some kind of carbon filtration. Nothing he heard of in brewing. Only thing was condenser stack where a ventilation system can't be installed reasonably.

R. Costantino said he wasn't talking about cleaning it up, but if this was a bad day, pollen, wind, etc.

George Bauer of Principal Consulting in Amherst came forward. They provide scientific services. He usually represents an applicant. They analyze impact that industrial operations have on human health and environment. They deal with toxic emissions and conveyances. For past ten years doing too many odor issues. It is subjective. It is regulated in NH. There is a process to go through. If that happens in North Carolina, it is a very onerous process. They work with facilities in NH. With the facility in Nashua, the owners come in advance and say they don't want it to be an issue and ask them to tell them what to do. They look at sources of the odor producing process, how do they get discharge from the facility and what can be done to mitigate surrounding properties.

R. Costantino asked if they work experience with breweries.

G. Bauer said not a brewery but a distillery. He spent time visiting distilleries. Looks at what are odors and how to they control them. The concept of minimizing impact of odor is fairly universal. There are standards for breweries. Depending on size you may have to have a State permit because emissions of ethyl alcohol and maybe particulates, they want potential odors controlled up front. This was not a big deal to insure no impact on surroundings. They would do modeling. There are standard EPA models. They want to know if there is any two hours during the year when the emissions could have a negative impact..

R. Costantino asked if there was a device to measure how bad the odor is.

M. Thornton asked if it had an objective scale.

G. Brown said yes. In one facility they looked at they recommended they buy their own unit so they could constantly monitor it. You are not going to buy a machine for a nano brewery. It is about \$14,000 to start with. That is way beyond anything here. There were two primary things he would recommend. Bonczar said he was going to ask.

G Bauer said what was the best management practice for controlling source of odors. It is more than creation of mash to production. Other steps in the process. Understand when any occur and how you control them. This ventilation system is probably very good at controlling it. Discharge is likely a problem because of the height, like the chimney on your house. It is the influence of air passing over the nearby buildings. At certain wind velocities the air flows over the top and will trap the discharge and cause it to come back down to ground level. If you watch a wood stove chimney on a still cold night you will often see the smoke come up and then come down. Lower wind speeds will cause that problem. They analyze that – what is likely to happen at ground level. Solution is you increase the stack height and increase the velocity of the air coming out of it.

M. Thornton mentioned wind turbine.

G. Bauer said it was a matter of where the discharge is. Has to be above the roof line. About nearby buildings and when they would trap discharge. Must be 1.5 times away from the longest distance to the nearby buildings. In this case that cannot happen because the buildings were so close to each other. Simply, does that discharge go off into the air?

M. Thornton said what was a reasonable height that would give a good feeling that it would satisfy the property.

G. Bauer said yes. Pretty simple to do. That is a calculation that looks at definition and height of surrounding buildings.

W. Ogert said if he was frying fish, that would be acceptable.

G. Bauer said not as far as surrounding buildings.

L. Daley said the methodology described was very detailed. This was a restaurant there for a very long time and venting out fumes – noxious or not, depending – this methodology could be applied to any restaurant use. Having difficulty understanding that it applies to the current discussion.

K. Lagro mentioned 1 Nashua St.

T. Quinn said one of the differences is that this requires a special exception.

S. Bonczar said L. Daley brought up a good point. Because of the definition it becomes manufacturing. But how is that different compared to odors from a restaurant? Did not know. Could continue and give the Bd. a chance to take a look at existing stack since they can't see it and also give applicant a chance to go back and do more research as to venting and what is out there and what other nano breweries are using and come back and report to the Bd.

J. Dargie said more of having a plan to have farmers pick up byproducts. It would be easy for him to find someone to pick those up. Re hours of operation, when are the odors there and when the stack will be in place. When is there going to be a restaurant operating there.

T. Quinn said it was for lease.

J. Dargie said they were talking about a business there for many years.

T. Quinn said his point was if they table and give everybody time to investigate issues that could presumably come to a solution that was agreeable to everybody.

M. Thornton asked if he was suggesting that the three of them come up with a plan.

T. Quinn said G. Bauer was very busy and he didn't bring him there so he could be hired to do this analysis.

S. Bonczar didn't want applicant to have to spend thousands of dollars on this. Just do research on what other options are out there and what other nano breweries were using. Not hire an engineer.

W. Ogert said he did that research . Eighty percent use a kitchen vent with forced conduction through a stack – nothing special about it.

M. Thornton asked if the old vent with a higher stack would work with water or active charcoal to scrub it.

J. Dargie said they didn't even know if there was going to be an odor problem. Why not put a condition that if the abutter feels there is an odor issue that could be a requirement to work with them to mitigate the problem.

W. Ogert said that any modifications to the stack would require the property owner, because he was leasing. He believed that would be property owner's expense because it was not something he could take with him when he left. Contract stipulates certain items he is allowed to modify.

S. Bonczar said it might be a reason to continue.

T. Quinn said his feeling was if they postponed it and had more information at the time of the decision, conditions could be tailored specifically. It will take time and additional funds, but it might be the most efficient way to solve the problem. His client not opposed to use provided no odor issue. If there are, then both sides could spend more in the long run to address it. They were there to work cooperatively to address the issues and not kick the can down the road where at that point there were limited options.

W. Ogert was a little unclear during the continuation how they plan to establish what odors are emitted. It sounded like they were going for an action plan to mitigate odors that they don't know exist. Or are they trying to prove the actual.

M. Thornton said you can't prove a negative.

W. Ogert said exactly, he would have to have the system in place

G. Bauer said quite a bit had been done to characterize the odors from nano breweries and micro breweries. this was not the first time this had been before the Bd.

K. Lagro said they have also addressed the storage of used grain outside, so that was immaterial. The only thing to address was the vent.

M. Thornton said it had been said it will be there a couple of days. But where will it go after that.

S. Bonczar said applicant said it will be in closed containers and he doesn't want it around. Just like restaurant that have dumpsters and garbage cans that they come and take. He thought the Bd. was okay with that. Applicant was looking rather than for someone to pick it up but also a farmer who would use it. As far as odors, he thought that was the concern of the abutter. Not sure it was a concern of the Bd. based on testimony at this point. If not, they didn't need to table it or continue this if they felt it was enough information that they didn't feel it would be a problem with odor.

M. Thornton asked if he was saying they could put stipulations.

S. Bonczar said they could, but they would have to make sure they were fair to the applicant and abutters. If they put stipulations that they can't measure then the stipulations are useless.

R Costantino asked if this was the first time the applicant had been talked to about this.

T. Quinn said he talked to applicant just before the meeting. But abutters get very short notice of the hearing. There was only so much time to pull information together.

R. Costantino said there was no dispute, no background. He would lean toward saying please check into that. It was his impression that he hadn't looked into stack flues.

J. Dargie said they can't do anything about that. The light manufacturing with the gravel operation. She brought up fact that this was noisy and will it affect abutters and they said it was far away. They took them on their word. Where is the quality of life for abutters when they come back and say it is more noisy than said?

R. Costantino agreed.

J. Dargie said how do you measure odors until they are produced? Can't address it until it is in place, with maybe a condition.

S. Bonczar said his opinion was the applicant can only make the best effort to minimize it. Can he minimize it to the point – anybody can say they smell an odor and don't like it. Do they have enough proof at this point that the applicant is taking steps to mitigate odor or do they want more information, and have him come back? If they feel they have the abutter's concerns about it and taken that into consideration, do they want more information or do they have enough to make a decision this evening?

M. Thornton asked if it would hurt the applicant to continue this for two weeks.

K. Lagro asked if it was doable.

There was discussion about whether the applicant could come back in two weeks, based on the fact that he lived in Nashua, but worked a day job that involved travelling and will be in Springfield.

L. Daley said that the next meeting had two special exception cases on the agenda. It could probably be the first on the agenda.

S. Bonczar asked for anything else.

J. Dargie asked T. Quinn, in the attached articles, if he looked into how big the breweries were.

T. Quinn said he hadn't had an opportunity to; he just wanted to highlight them.

S. Bonczar said it might be fair to continue this.

L. Daley said there were other abutters who wanted to speak and if they decided to continue to two weeks from now, please be quite clear what you are asking the applicant to do.

S. Bonczar asked for any other questions from the public.

Aaron Kaplan came forward, who owns the property behind and down the alley. He said the alley is a right of way for 19 Nashua St., which is his building. He said the current vent stacks were right on top of his building. He likes to see people come to Milford to do business and to see different businesses in town. He had drawn up some paperwork not knowing what he would hear this evening. Hoped it would alleviate his concern. Not even close. A lot of details about smells and what it smells like. On two of those things S. Bonczar addressed. It was mentioned about doing engineering surveys and it was stated was that was a way to encourage additional expense and make an applicant go away. There was an easy to avoid those expenses and good reasons for those to be incurred. Best way is to set up in an industrial area in an appropriate area. Many classifications of business are very pinpoint. Manufacturing covers a lot of things.

S. Bonczar said this was a special exception. It goes away when the applicant ceases operation. If he goes out of business and doesn't manufacture beer, it goes away. It doesn't remain with the property.

A. Kaplan said the flip side was as long as he was doing business. It was his understanding if he were to sell the business. If he does business and does well and then sold it. The special exception carries forward with the property, correct? It only ceases when that business ceases completely.

S. Bonczar said correct.

A. Kaplan said then the special exception is gone. But as long as that foothold is gained and as long as they continue utilizing this special exception it stays. So it was long term thing, not temporary.

S. Bonczar said a special exception does not go with the property. A variance goes with the property. It doesn't matter who owns it. It goes with the property.

A. Kaplan said it was stated that with the manufacturing this was almost a technicality. The reason they were there was because it was kind of like a restaurant. There was reason breweries fall under manufacturing. They are compared to restaurants, which are very different. No different than if you were to compare diners on the Oval serving eggs and bacon and said "Let's put in a slaughterhouse because it's the same product." Brewery has thing has a lot of use associated with industrial a restaurant doesn't.

Section that says no use shall be permitted that could cause any undue hazard to health or objectionable odor. It doesn't say would be. It doesn't have to be a guarantee. It is erring on the side of caution.

Milford ordinance said use shall not be permitted which could. Could potentially be grains and byproduct, which are much different than restaurant waste, and also offensive to public due to noxious odor. He had examples to show each. That can't be glossed over. It is one of the underpinnings of that section of the Ordinance. How to measure smell before Ogie is in place. He will provide examples. If it is tabled and assurances put in place they may be addressed, but his concern as a business owner on the Oval and also residence above there. He didn't know if the landlord understood. Do they have enough from the applicant addressing these concerns? Answers so far didn't have detail. Those details will make a big difference. Primary concern is that he didn't think they will find it will be a suitable location. He provided a three-page letter detailing their position. Attached were excerpts from article. How do they know what smells will be there? Articles which touch on that and what could go wrong. He had full news article from which the excerpts were taken.

S. Bonczar said the packet from Atty. Quinn would be designated Exhibit 1. The letter and packet from Mr. Kaplan would be Exhibit 2. The full articles from Mr. Kaplan would be Exhibit 3.

A. Kaplan said he would submit them for the record.

He has property very close by. It is actually attached because his building was part of that prior to this. There was an alley behind the building.

S. Bonczar was confused where his property was.

W. Ogert pointed it out.

J. Dargie said it was on Nashua St. What businesses?

A. Kaplan said a yoga studio and hair salon. The former fun center was part of Bravo's. That's why the buildings are attached.

Photos of the alley were designated as Exhibit 4.

A. Kaplan said, looking at the photos you could see the vents were actually less than 10 ft. from those windows.

M. Thornton asked, linear space?

A. Kaplan said his father measured from building to building. Distance between buildings was 10 ft. One of those windows is the only window that could be opened. If they get noxious odors with those vents, it is a problem. Other window is a shared one so that could affect both units. Also a door. The alley is a right of way so bins and barrels, etc. cannot be stored there, because of that right of way has to kept free and clear.

S. Bonczar said the applicant stated he would not be storing anything there.

A. Kaplan the projection was 2 to 4 barrels per week. Amount allowed by law is 2,000.

J. Dargie said applicant stated the space would never allow that.

A. Kaplan asked where was the breaking point. One person may say it was not affecting you enough and another may say it was. The articles will show a big difference of opinion. You can see that it is only 10 ft. away. He had no objection to the tasting room. If it was retail sales he would not object to it. It is strictly the manufacturing process.

M. Thornton said A. Kaplan didn't object to the process, but the effluent.

A. Kaplan said the manufacturing process of brewing - waste storage, attraction of bugs. Manufacturing process of brewing was what they expected to do, which is why there is a special exception. There was a brewery on Elm St. at least ten years ago in a more appropriate facility. The Town owns it now.

J. Dargie said it was much larger.

A. Kaplan said they had a parking lot if stuff started spill outside if it starts to smell inside.

J. Dargie said applicant wasn't asking for that magnitude.

S. Bonczar said they weren't going to discuss industrial sites. The Zoning Bd. deals with land use and they were talking about this particular property.

J. Dargie said if this already in the zone they wouldn't be there. They were just looking at whether to give a special exception to allow it.

A. Kaplan said there were appropriate sites.

J. Dargie said that didn't come into play.

S. Bonczar said applicant wasn't asking for a different site.

J. Dargie agreed.

A. Kaplan said he was putting forth a position that this was not an appropriate site. He used to live not too far from that other facility. He saw bins of open rotting waste and flies in summer. Guessing that as a reason they are gone now. It was not a pleasant odor. It was the same manufacturing process. When you do a search of brewing odors you will find a range of descriptions - rotten egg, cow manure, etc. The micro brewing is an active community and have forums. It depends on type of grain and cleanliness of equipment and fermentation process. If some of the grain goes bad. If it is one bad batch

M. Thornton said it went to the yeast being used and the dewatering; that was why he asked about it - the less fluid contained in the waste the less problem if it is taken away immediately.

J. Dargie asked if he had other concerns.

A. Kaplan said the waste storage.

J. Dargie said they addressed that. Planning Bd had asked applicant if he was going to find a farmer.

A. Kaplan said it was enforcement. If he said he said he had a letter from a farmer saying he will pick it up.

S. Bonczar said he didn't need to do that. He could call a company just like a business that has someone pick up trash. Applicant stated any waste would be stored in closed containers in the basement area. Did A. Kaplan have an issue with that?

J. Dargie said there was enforcement.

A. Kaplan asked what were the teeth behind it. How was it enforced? Town attorney?

J. Dargie said the building inspector. Health.

A. Kaplan said it had to be legally enforceable.

L. Daley said that was a valid point. Some clarity on management of waste was needed. That had to be part of the decision. Re enforcement, that plan had to part of the Bd.'s decision. If agreement was contracted to move it off site that should be part of the decision. If the Bd. decided to table this the applicant should come back with a plan for waste. To solidify the process on a document and that could be enforceable by the town.

S Bonczar asked applicant if he could do that.

W. Ogert said yes.

L. Daley said alternative would be to work with the farming community and also contract with a third party waste management facility.

J. Dargie asked concerns other than waste and odor.

A. Kaplan said Martha's Exchange was put forth. He also mentioned Abel Ebenezer and White Birch.

J. Dargie said those were much larger.

A. Kaplan said he assumed applicant was not getting into business to stay small.

S. Bonczar said applicant stated he couldn't brew 2,000 barrels in that facility.

J. Dargie asked applicant how much he could.

W. Ogert said about 3 ½ barrels would be max fitting in that space. 3 ½ barrels times 52 weeks.

A. Kaplan said applicant talked starting out brewing one or two days but if he wanted to be successful he asked for seven days. The application said seven days.

W. Ogert said you could brew in a day, but a week of fermenting and cooling and bottling. Even if you brewed more the next day you would have no place to put it unless you have additional vessels. He didn't have enough space for that.

S. Bonczar and J. Dargie said he would have to move.

A. Kaplan's father said there would be plenty of room. Expand the kitchen and instead of tables for sitting room he could put vessels there.

J. Dargie said that was not the plan.

S. Bonczar said the Zoning Bd. will approve a certain plan. If he goes beyond that plan and decides to expand the kitchen then it is a different plan.

A. Kaplan asked if it went to planning.

S. Bonczar and J. Dargie said he'd already been to the Planning Bd.

A. Kaplan said if you had an existing business that was legally allotted up to 64,000 gallons and each time he wanted to add on he would have to go to Planning Bd.

S. Bonczar said he would have to go to the Building Dept.

M. Thornton said it would be tough to physically fit more and more.

K. Lagro said the other thing was he was renting the property and that owner had, as mentioned in his packet, a number of conditions on what he could do.

W. Ogert agreed. There were hours of operations restrictions due to the residence above

K. Lagro asked about modifications to the building, as well.

W. Ogert said yes.

A. Kaplan said he spoke to the manufacturers of one of these brewing systems and asked about odors and never got a straightforward answer. Once he dealt with a restaurant and the restaurant manager had rules that brewery could not be done during operating hours. The business didn't want that odor going into the

restaurant. There were articles where you could smell from away. His customers won't to drink at the tables not walking out with a sixpack. Milford Oval not compatible with this use as application states. You don't want to allow this and regret it later. He brought four articles. He read excerpts. You had to look at people already in business and landowners. All articles were not resolved in weeks. – it took years. If it was hard to say no from the beginning, how much harder to say to someone who has sunk all this time and money into this business, and you have to stop because this landlord loses the tenant, etc. M. Thornton said his way would take away anyone's right to try something new within the limits. Agreed that he and others had to come to an agreement. Mr. Kaplan's language was saying "he believed" was his feelings, and he had a right to those feelings.

S. Bonczar asked A. Kaplan to wrap it up in the interest of time. They have the material.

W. Ogert said the points brought up were less specific to his specific location on the Oval, but he would have the same objection to the Pasta Loft proposal to add a brew pub to his business.

A. Kaplan said that was a different case. If they were selling wholesale vs. selling to their customers. If it were a manufacturing process he may have concerns. Someone posted on the forums said they were thinking of opening a business; how bad would it be. He lived next to a brewery and it smelled.

M. Thornton said so would a bakery.

S. Bonczar proposed to continue the case to allow the Bd. to review all the material.

A. Kaplan wanted to say one thing about storage, because it seemed like it was settled. He quoted something saying one of the issues is dealing with piles of gunk. Brewer said he had 16 cans of spent grains in his brewery stinking up the place. They don't have a plan.

J. Dargie said that was what they were asking for.

A. Kaplan said it won't be enforceable.

J. Dargie said it will be, because of what L. Daley had said.

A. Kaplan asked regarding the five criteria, the Bd. would discuss them among themselves and he wouldn't have to speak on it.

S. Bonczar said it had been submitted into the record. He hadn't had a chance to read it all.

J. Dargie said it would not be fair to have him just read it.

S. Bonczar said he wanted to read it and absorb it and look at these articles and the scope of the articles.

J. Dargie said right. Were they talking apples to apples.

S. Bonczar agreed.

M. Thornton said there were two issues. Smell during the process and effluent. Any waste?

A. Kaplan said any waste.

M. Thornton said specifically smells in his area. Valid.

A. Kaplan said it was waste and odor that is presented by commercial use that isn't presented by industrial use.

S. Bonczar asked for any other questions from the Bd.

A Kaplan said if it was going to be continued, he wouldn't say any more. But if it was finalized he would prefer to speak.

J. Dargie said the abutters said they didn't have much time. Rules stated it must be submitted three days prior to the meeting. When were both abutters notified?

T. Quinn said two days. Notice has to be mailed and picked up.

S. Bonczar said town has to follow certain rules.

A. Kaplan said when you apply for a special exception you have all the time in the world to prepare but when you receive the letter you have maybe a week, maybe two, to research to see how you feel about it and if there is an issue.

S. Bonczar said it was governed by state statute.

A. Kaplan said it was not unheard of to submit documents the day of.

J. Dargie said she had never run into this problem where abutters said they didn't have time to submit paperwork – in five years.

M. Thornton said in seven years, it had never happened.

J. Dargie asked if got notified by Planning Bd. meeting.

A. Kaplan said he only knew about the Zoning Bd. hearing. Is it usually sent certified mail?
 L. Daley said yes.
 A. Kaplan said he didn't get it in his hands. Didn't mean it wasn't sent or received, but it didn't end up with him.
 S. Bonczar asked if he was all set.
 A. Kaplan said yes.
 S. Bonczar recommended continuation to give Bd. a chance to look at material and see how it impacted the criteria. He asked applicant to put together a more detailed plan of storage of waste and investigate options re odor.
 M. Thornton said removal from the property.
 S. Bonczar said talking about odor. Not going to dictate how it is stored, but give more detailed plan. Re odor, investigate, for instance, additional height of the stacks, whether there are units or devices that could be installed in the stack to reduce odor.
 J. Dargie mentioned talking to Martha's to see what they do.
 S. Bonczar said that might be a good idea. It was a suggestion.
 W. Ogert said he had friends with several small breweries in the area. Can bring examples of what they were doing.
 J. Dargie suggested getting letters from any abutters of those small breweries.
 S. Bonczar said that was fair to the applicant and abutters since this was the first time seeing it.
 W. Campbell said he would like more time to make a fair decision.
 S. Bonczar said he didn't want to table. Would like to continue. Tabling would mean they wouldn't hear it. He asked for a motion to continue to May 16.
 J. Dargie made motion to continue to May 16, 2019. It will be the first hearing.
 R. Costantino seconded.
 All in favor of continuing.
 S. Bonczar said as stated, Bd. should look at the material. Applicant has homework. They will reconvene and continue discussion. He told all in attendance there would no additional notice that goes out for the May 16 meeting.
 Someone asked if there would be public comment.
 S. Bonczar said he hadn't closed it, so yes.
 A. Kaplan asked about restrictions on the number of days of brewing.
 S. Bonczar said they could put restrictions if they feel it was necessary.
 A. Kaplan asked if it would be if X happens, then Y is the result.
 S. Bonczar said they could restrict capacity or hours of operation. Those type of things.
 A. Kaplan said off brewing hours. Like they can't brew beyond 10 o'clock.
 S. Bonczar responded they could put restrictions. That was all he was going to say. And, if they all agree. Usually it is proposed, someone makes a motion to do it, and it has to pass. That would be part of the approval process.
 There was discussion of getting copies of the exhibits for W. Ogee, which would be done.

Other Business:

Election of Officers:

J. Dargie made a motion to elect S. Bonczar as Chair.
 K. Lagro seconded.
 All in favor.
 S. Bonczar made a motion to elect J. Dargie as Vice Chair.
 R. Costantino seconded.
 All in favor.
 S. Bonczar was elected Chair and J. Dargie was elected Vice Chair.

There being no other business S. Bonczar asked to adjourn.
M. Thornton moved to adjourn.
J. Dargie seconded.
Meeting adjourned at 9:15 p.m.