

**Town of Milford
Zoning Board of Adjustment
May 16, 2019
Case #2019-07
Ogie Brewing, LLC
Special Exception**

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

Lincoln Daley, Community Development Director

Absent: Joan Dargie, Vice Chair
Tracy Steel
Paul Dargie, 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: _____

1 Steve Bonczar, Chair, opened the meeting and introduced the Board members. He informed all of the
2 procedures of the Board. He said there was one case continued from the previous meeting and one new
3 case. He stated that Joan Dargie was not present and asked for a motion to seat Karin Lagro.
4 M. Thornton so moved.
5 R. Costantino seconded.
6 All in favor.
7 S. Bonczar said K. Lagro would be acting as a regular member for the first case, even though it was a
8 continuation of the May 2 hearing. She was present then and heard testimony and received all the
9 exhibits.
10 S. Bonczar invited the applicant to come forward.
11 S. Bonczar stated that it was left at the last meeting that they wanted time to review and read all the
12 material provided by abutters. He asked if everyone on the Bd. had looked at it. Re #2, two areas to go
13 back and look at. The first being venting systems being used by other nano breweries in the area, i.e.
14 Martha's Exchange and second, the plan for disposal of byproducts. Applicant had submitted a packet
15 which the Bd. reviewed. He asked applicant to hit the highlights of that packet.
16 William Ogert said he visited several breweries of the same size and slightly larger, mostly in the Nashua
17 area, to see what measures they had in place and if anything differed from what he thought was normal.
18 Some of them were electric and didn't require venting. In general, all of them used the same system as
19 proposed. No filtration of the stack. Some use natural draft. Others used a fan system. None had
20 anything extreme, just conventional kitchen stacks to the roof. One picture showed it not going to the
21 roof but straight out the side of the building. The same level as the building. None of them had any
22 objections from the Town.
23 R. Costantino asked if the stack was over the roof.
24 W. Ogert said it was just over the edge of the roofline. If you looked at Martha's, it was not above the
25 roofline.
26 S. Bonczar referred to pictures of Martha's.
27 W. Ogert said one of the breweries used electric brewing and rather than cost of any stack used a
28 condenser pipe which he suggested as a possible alternative. It uses cool water mist to condense the
29 steam into a liquid. Picture was shown of Martha's with that on the first floor and apartments above.
30 Showed a picture of the back of the building with two stacks on the left. One for propane and other for
31 steam.
32 W. Campbell asked how many stories up they were.
33 W. Ogert said second floor.
34 W. Campbell asked if the apartments were below that.
35 W. Ogert said yes.
36 M. Thornton asked if there were apartments above.
37 W. Ogert said he assumed not below but in front of the vents.
38 S. Bonczar asked about the sizes of these compared to what the applicant had.
39 K. Lagro said seven
40 W. Ogert said seven barrels. He proposes three and a half.
41 S. Bonczar showed photograph of the vent to the side.

1 W. Ogert showed Odd Fellows venting of steam through the roof. Also Liquid Therapy in Nashua on the
2 first floor, one street away from Main St.

3 M. Thornton asked if the building was to the right of 90 degrees.

4 W. Ogert said yes, the old firehouse. Dance studio above with Peacock Players theater – people who
5 would complain if there was a smell. He showed condenser stack some used as an alternative to venting.
6 A big candy cane-shaped pipe – downside is increased water usage.

7 M. Thornton asked why not copper pipes with coolant you could re-use.

8 W. Ogert said he hadn't seen anybody manufacture that. It would probably have to be custom built. He
9 just wanted to show breweries that didn't use venting directly.

10 S. Bonczar asked if the Bd. had any other questions.

11 R. Costantino had a comment. He called Nashua Code Enforcement Officer and identified himself and
12 asked about compliance for the breweries in town. He said they had none. They had four in town. He
13 said Martha's had people upstairs. He was interested in what people complained about. There were 86
14 breweries in NH.

15 M. Thornton thanked the applicant for the summary and that he had proposed to use the condenser, but if
16 the condenser stack was not sufficient he would be more aggressive. The intent was to be a good
17 neighbor.

18 W. Ogert said yes.

19 L. Daley showed picture of the actual vent system at the proposed site showing rear of the building and
20 extending above the roof line, and pointed out apartments and the building Mr. Kaplan spoke about.
21 Distance was pretty close but one could talk about the height difference between the buildings.

22 M. Thornton said he was familiar with vent stacks and straight stacks. That looked like a turbine fan or
23 power stack

24 W. Ogert said it was motor driven with exhaust return air on a separate system.

25 S. Bonczar said the second part of the request was disposal of byproducts.

26 W. Ogert said he couldn't contact them himself because he had a day job. His fiancée contacted several
27 farms in Milford. One would take grain – probably not all of it. Two others may. He was waiting for
28 answers from others.

29 S. Bonczar asked about a commercial contractor.

30 W. Ogert said he hadn't lined them up. He contacted some who said it was typical perishable waste like a
31 restaurant. It didn't make a difference if it was grain or food waste. They treat it all the same. He
32 proposed to store steel drums in the loading area. Farms could get easier access if they come in on
33 Monday. Loading area used for deliveries of supplies and it would give them access.

34 R. Costantino asked if it was inside.

35 M. Thornton asked if there was any filtration.

36 W. Ogert asked, in the bay area? No.

37 M. Thornton said the grains were contained and moist. After 24 to 48 hours, it makes pressure. Was he
38 planning to have them out of there before it could have an unexpected opening?

39 W. Ogert said he planned to have it picked up by farmers within one or two days of brewing.

40 S. Bonczar asked about commercial.

1 W. Ogert said with commercial waste management they have set schedules they contract. Working with
2 the farms there will have to be something they negotiate. If you are going to take them you need it
3 removed by Monday or Tuesday. If that will be a problem they will need to look elsewhere. In addition
4 breweries have number of on-line forums. He posted on national forums looking for suggestions of other
5 breweries in operation if they knew of any systems they may have found on-line. No answers re systems.
6 All answers he got were that he was basically trying to address an issue that was not an issue. They said
7 don't let your grains sit for a couple of weeks.

8 S. Bonczar said he thought that was key. He said applicant mentioned that operation would be seven days
9 a week. As far as the boiling of the hops or grain, could that potentially be seven days a week?

10 W. Ogert said no.

11 S. Bonczar asked about a set day of the week he would be expected to do that part of the process and how
12 many days later he bottled.

13 M. Thornton said he spoke of a two hour boiling.

14 W. Ogert said that would be max. Most are 1 or ¼. hour.

15 S. Bonczar asked if a particular day in the week for that.

16 W. Ogert said Saturday probably between 9 a.m and 1 p.m. Fitting a full day of brewing into a day, that
17 was one of the early steps to get done early before you run out of hours.

18 M. Thornton asked if he was flexible to address A. Kaplan's issues for the people who might not be able
19 to adjust to smell, so it was not during business hours.

20 S. Bonczar said, assuming it was a problem.

21 W. Ogert said he would certainly be open to working with everyone on it unless it made it impossible to
22 brew. Once you start the process you have to keep going.

23 M. Thornton said start the process at a time when it would be least offensive.

24 W. Ogert said yes.

25 S. Bonczar said 2.4 barrels a week, which was 208 barrels a year or 62 to 124 gallons per batch. State
26 allowed up to 2000 which applicant said he couldn't do there. Would he object to a restriction on how
27 much could be brewed per week? It would have to be proposed and a motion, but if it was restricted to six
28 barrels a week, which was fifty percent above what he planned - which was some leeway for growth - but
29 there was a limitation with his space. That would be about 312 barrels a year. Would that be not
30 desirable?

31 W. Ogert said it wouldn't impact on business. Between available space and floor loading, three and a
32 half would be maximum of that location.

33 M. Thornton said if he were that successful he would be seeking another place.

34 W. Ogert said if he grew, he would need another building.

35 S. Bonczar asked if there was anything to add.

36 W. Ogert said no. It was pretty much covered.

37 L. Daley said another issue was water based effluent material.

38 S. Bonczar said he was going to ask about it. Planning Bd. brought it up. Had that been addressed with
39 Water/Sewer?

1 W. Ogert said he had a phone conversation. He understood he needed to have a system put in place so it
2 was not going into the sewer line without pretreatment or settling tank. He had an application to get to
3 him. He [at Water/Sewer] didn't see concerns but would have to get together.

4 M. Thornton said filtering out solvents.

5 W. Ogert said re the chemicals, not so much with brewing process. It can be addressed with storage and
6 conditioning.

7 K. Lagro quoted from the application re projected water usage of 50 to 100 gallons.

8 M. Thornton said the first time he said the chemicals were very benign.

9 W. Ogert said water and there was alkaline and put into water to dissolve chemicals. Mostly designed to
10 be environmentally friendly.

11 M. Thornton asked if anything would have to be added to the effluent to adjust the pH.

12 W. Ogert said possibly if it was out of range. If it was too alkaline would have to add to bring the acidity
13 up. Simple process. He spoke to company the other day whose entire business was waste water
14 treatment. They didn't think he would need their product because they work with really large businesses,
15 but he contacted them in case it became something he needed to put in.

16 L. Daley asked W. Ogert re management of solid material. W. Ogert mentioned storing temporarily in
17 the bay area. Was that a pull-up door?

18 W. Ogert said yes.

19 L. Daley asked what vessels it would be stored in.

20 W. Ogert said plastic 55 gallon drums with sealed lids. Those would be used to seal it and still move it.
21 A single batch would probably use two and a half of those.

22 L. Daley asked, per week?

23 W. Ogert said yes.

24 M. Thornton said they saturate and swell. Was that swelled?

25 W. Ogert said yes.

26 L. Daley asked, when applicant was talking with other breweries, when they store their used material, was
27 there an odor or did it cause any problem?

28 W. Ogert said no. They didn't even seal their containers.

29 M. Thornton said because of the anaerobic bacteria.

30 W. Ogert said yes, with the oxygen it is more natural process. He would seal them because of the
31 concerns raised.

32 L. Daley said concerns of the last meeting about the process and he mentioned agreement with farmers to
33 remove on a regular basis. It would be a level or comfort to have a contract with a waste management
34 company. He didn't know if the landlord had a waste management contract in place.

35 W. Ogert said no.

36 L. Daley said it should be part of the process.

37 W. Ogert said he would need that for regular trash.

38 S. Bonczar said that had to be primary because farmers are not available all the time.

1 L. Daley was envisioning that farmers come on Monday and if it was not there the waste management
2 would come the following day.

3 M. Thornton asked L. Daley and applicant – most of the contractors he knew come and take it as a fixed
4 price. Do they charge on volume, too?

5 W. Ogert said there was a service charge to come out and then poundage.

6 L. Daley said his point was a set schedule to have it removed off site on a certain date. Also settling tank
7 as a possible step before it went into the town waste system. What material was generated in that
8 process?

9 W. Ogert said it was a tank where anything like drains from the washing sink and flow drains and goes
10 into large steel container in the basement where solid allowed to settle and clear liquid pumped out to the
11 septic. Over time you will reach a point where an average septic company can come in and pump the
12 bottom out.

13 L. Daley said it was not part of the disposal of other material.

14 W. Ogert said no, strictly water.

15 L. Daley asked if it there was a smell.

16 W. Ogert said no. Enters a drain trap.

17 M. Thornton said it was like a septic system.

18 W. Ogert agreed it was very much like a septic system.

19 S. Bonczar opened the meeting for public comment. He asked people to keep their comments around this
20 evening's testimony. A lot of time was spent last meeting to go over items and they had a lot of items to
21 review. Would like to keep discussion at that this evening. He said Atty. Quinn had sent a letter to the
22 Bd. and he would like a summary of that put into the record as Exhibit 5. Would not like to re-hash what
23 was discussed at the last meeting. Would like to hear any new concerns.

24 A. Kaplan, owner of 19 Nashua St., behind the proposed site and an abutter of those buildings, came
25 forward. He presented a memo to the Board May 16, 2019 requesting restrictions (Exhibit 6). At the first
26 meeting he read an application that said intent of plan was producing 2 to 4 barrels and the State allowed
27 up to 2000 and there were many other concerns showing seven days a week, Monday through Sunday,
28 brewing time. Based on that he had to protect his property and his tenants and abutters by asking for
29 outright denial of the application. After that hearing he reached out to the real estate agent and asked for
30 opportunity to meet with the applicant. They met that weekend and discussed some issues. He didn't
31 even know what restrictions he would want. Meeting was productive. He liked the applicant and was
32 impressed by him. One of the issues was brewing per week. Believed he was fine with 4 a week
33 indefinitely. One of A. Kaplan's concerns was micro breweries.

34 M. Thornton said it was nano.

35 A. Kaplan was satisfied with 4 barrels a week. Thought it was two days a week.

36 W. Ogert said yes.

37 A. Kaplan said that alleviated his concerns.

38 S. Bonczar said that was process. It will be operating 7 days a week. But the whole process of brewing
39 was Mr. Kaplan's concern.

40 M. Thornton asked if it was the business 7 days, or brewing 7 days.

41 W. Ogert said the confusion was that the proposal mentioned in the beginning had been operating Friday
42 through Sunday because he was keeping his job. Hoped within a year he would be up to 7 days. That

1 would be tap room and sampling room and tasting room, in addition to brewing on weekends. If things
2 shifted and he had to brew on Tuesday instead of Saturday.

3 A. Kaplan said that would be OK unless some circumstances arose to warrant that. They do not object to
4 the tap room. If the brewing process were limited to two days that alleviated a lot of concerns. However,
5 they came into it asking for a denial. At this point, if the restrictions not in place to protect abutters
6 appropriately and cannot be meaningfully enforced then their objection stays. If it was a bunch of
7 worthless restrictions, they would not want it.

8 S. Bonczar said there would be restrictions.

9 A. Kaplan said would like to proceed. But about odor and waste water but not waste water department
10 which was reviewing the proposal and didn't know if he can discharge into the sewage. There may be
11 whole details there, pre-treatment chemical and things not sorted out yet. He would like to address waste
12 byproduct. That has shifted to the garage which W. Ogert did say that at the meeting. He did research
13 into grain. That concerns him. He referred to a microbrewery.com web site. If this expanded down the
14 road, so they know what restrictions are. He cited information from the web site re 2.1 sq.ft. per barrel.
15 Application said 2045 SF which came out to 947 barrels talked about. That, according to the site, it was
16 much higher. If the restriction stays, it stays at that, then it is addressed. If W. Ogert decided to cash out
17 and sell, the new owner may have other ideas. He believed the special exception was only for the
18 business.

19 L. Daley said if the brewery moved out and a brewery came in the special exception would maintain.

20 M. Thornton said if he were to sell and the business stayed the same.

21 L. Daley said if the use stayed the same.

22 M. Thornton said all restrictions would stay the same.

23 L. Daley said yes.

24 A. Kaplan said it was important it be done right from the beginning. If you were also to take into account
25 their basement which was access then it ups the gallons to just a little shy of that 2,000 figure. Wants to
26 be sure it was not something like that down the road.

27 M. Thornton asked S. Bonczar if they were going to stick to 6 or go to 4 barrels.

28 S. Bonczar said they hadn't discussed that yet. Wanted to move along and not discuss what was
29 discussed at last meeting. Changes applicant had made. They had another case to hear.

30 A. Kaplan asked if he had a specific time [to speak].

31 S. Bonczar said he needed to move along because there were other abutters waiting.

32 A. Kaplan said re waste he did like wide garage door re waste byproduct he quoted from
33 beveragemaster.com. No one knew what would be there. He quoted from an article stating that for every
34 gallon there was approximately 10 lb amount of waste. Another article backed that up re FDM how much
35 would have been thrown away. One said 200,000 month. Amount of waste they were talking about, if it
36 was stored in the garage if it is not removed immediately – 24 to 48 hours. He said M. Thornton was
37 right on track when he asked. He mentioned figures from brewery, Old Ox Brewery set up in an
38 industrial district in Virginia. Same scale operation [as Ogie] which wants to set up in a commercial
39 district with a tap room and tasting room. He said grain would be removed within 24 hours of brewing.
40 He didn't see how one or two weeks was correct.

41 Bd. members said that no one had said that.

42 A. Kaplan said W. Ogert just said it.

43 S. Bonczar said no he didn't.

1 W. Ogert said he was confusing plan to vacate grain with the time it takes for it to become a primordial
2 soup. It was a comment from other brewers that if you left it for that time you would have an issue.

3 A. Kaplan said that he was saying one to two weeks was the time it took to degrade?

4 W. Ogert said one to two weeks was a comment from other brewers that if you didn't maintain healthy
5 practices and left them for that amount of time you would have issues.

6 A. Kaplan said he was pointing to one to two days – 48 hours. If they said one to two weeks, that was not
7 accurate. Whatever was said was said. There was a statement that some breweries said steam would be
8 vented through the roof of the building and they had no complaint of odors and he questioned how to
9 accomplish it. He called them and they explained it was in an industrial area. Only one complaint from a
10 potential tenant who would not like smell because they were brewing while he was there. He said you
11 want to get rid of that byproduct within 24 to maximum 48 hours.

12 M. Thornton said sunlight would affect it.

13 A. Kaplan said this looked at how they mitigate odor – venting through the roof. He also spoke to
14 Nashua. They don't have complaints. He looked at businesses other than in a building where he was
15 familiar with the landlord, Odd Fellows. She said they had some issues when they first opened with
16 odors. She put him in touch with that person. He would submit that information into the record. It was
17 in Nashua. He quoted from the response he received. The department didn't have any knowledge of it
18 but it may have been handled between the landlord and tenant. Re odors they talked about scale. That
19 would matter when they talk about Budweiser. It was the process that created problems, not the scale.
20 On NBC there was story about two workers who went into a complex and detected a smell and called the
21 fire dept. who evacuated the building. Odor was from a few gallons in a bucket from home brewing kit.

22 W. Campbell asked if the firefighters knew it was a brewery, going in. They would treat that as a hazmat
23 anyway. They would evacuate the building if they didn't know.

24 A. Kaplan said one of them is methamphetamine. That is why they evacuate. It is an odor strong enough
25 to call the fire department.

26 M. Thornton said an article he read said brewery odors can be alleviated by a higher velocity or extending
27 the stack. He believed the odor the fire dept. was addressing was something that had been sitting in a
28 bucket for a while. Didn't know of a commercial process that allowed biologically active substance to sit
29 around. It was more of a hazard to them than to the abutter.

30 A. Kaplan said a commercial process made it better, was what M. Thornton was saying.

31 M. Thornton said a commercial process had an investment in keeping it clean so they and their customers
32 are not affected by odors of a primordial soup with bacterial action.

33 A. Kaplan said they had cases showing how they mitigate. One of the concerns was that W. Ogert
34 engaged in doing this at home and was going commercial. More things to deal with. Things that could
35 go wrong.

36 S. Bonczar said they would make sure there were conditions. At the last meeting and this they knew there
37 was concern. The question was - based on what applicant said and what he additionally proposed, that is
38 the method of storage and other conditions– whether he had concerns re that.

39 A. Kaplan said he was saying there would not be issues.

40 S. Bonczar said they didn't know that.

41 A. Kaplan said he had articles that said otherwise.

42 M. Thornton said they had his public statement.

1 A. Kaplan said it would be easy to continue his straight up objection. Going a different way now saying
2 to put conditions in place.

3 S. Bonczar said asked what conditions.

4 A. Kaplan said extending the flue or a condenser?

5 W. Ogert said that was a proposal based on numerous examples of non issue with standard kitchen flue he
6 would be allowed to start and if there was an actual issue then he would go to the stack ventilation. It
7 would be an additional expense.

8 S. Bonczar showed pictures of the candy cane unit. That steam was not going up.

9 W. Ogert agreed. Would have to take on expense of coming up with engineering solution.

10 A. Kaplan said if they say they can't do it because it is winter or they don't have the money, if there is a
11 complaint by the tenants, the brewing is discontinued. Was he comfortable with that kind of restriction?
12 A guarantee.

13 W. Ogert said he wasn't sure how to guarantee.

14 S. Bonczar said it was for the Bd. to put conditions on.

15 M. Thornton said you propose and we enforce.

16 S. Bonczar said you propose and we may or may not.

17 A. Kaplan said it would better than being adversarial.

18 S. Bonczar said that was outside of the Board.

19 A. Kaplan it wouldn't do for the town to put in something that made the abutters uneasy.

20 S. Bonczar said it was a balance of the property owners and abutters.

21 A. Kaplan said it didn't do W. Ogert any favors to push it in with restrictions they were not comfortable
22 with. Then it goes to a rehearing and then to Superior Court and Supreme Court. There should be
23 restrictions which made everyone comfortable. Put guarantees there. He didn't feel the pictures shown
24 were very accurate. If you stand by Wadleigh and look up. You see the flue. It was said it is above the
25 roof line.

26 M. Thornton said above the peak.

27 W. Ogert said above the lower.

28 A. Kaplan said they had testimony that it has to be above the top of the building.

29 S. Bonczar said they had testimony that suggested that.

30 A. Kaplan said that was an expert.

31 S. Bonczar said Mr. Ogert could hire an expert that might say something else.

32 A. Kaplan said you can't cast aside expert testimony. Not a good thing to do.

33 M. Thornton said he also addressed velocity of the effluent. This was a power vent. Before anyone got
34 upset, please read last paragraph on that page while he made a statement. Didn't know if the landlord
35 would be amenable, if it became necessary, to carry some of that burden of the stack. Probably the most
36 affordable option available was keeping the power unit and extending the stack. Still, on a windy or
37 overcast day you will smell something.

38 A. Kaplan said there was a substantiated claim there. He quoted from a web site where tenant had
39 complaints. Had a stack condenser that didn't please tenants. He said he was asked if it was fine to store

1 grain in the basement. He couldn't say based on that. Cared about the end result. If he put in a stack
2 condenser and still odors, that was not enough. Serious restrictions to satisfy them so the abutters who
3 have invested in properties and tenants occupying the new building. They had a lot to lose if not done
4 right.

5 Ron Kaplan, father of Aaron Kaplan, said the alley in winter was not usually shoveled. They would go for
6 weeks without trash being picked up. They can't get in because of snow or car parked. The stuff in the
7 alley would be a problem.

8 W. Ogert said it was determined at the last meeting and said the alleyway would have to be maintained.
9 S. Bonczar said maintained and no storage. That would probably be restrictions.

10 A. Kaplan said he spoke to Mr. Ogert and he agreed to that, but that was before he [A. Kaplan] was aware
11 of the volume. A more appropriate location would be in front of the building. A small storage with
12 small ramp and he wouldn't have to go down the alley.

13 M. Thornton said better for him for security and farmer access. But he didn't see it as a problem for the
14 Bd. if the waste was stored appropriately and there was no odor, there was no issue.

15 A. Kaplan agreed. Another point agreed - brewing would be no more than two days and week and no
16 more than 4 barrels per week. That was settled. Brewing waste, byproduct grains removed within 24 to
17 48 hours. Waste will not be stored anywhere else. He didn't want a situation where someone says they
18 will put it there but they won't pick it up and move it. Restriction if waste produces odors it must be
19 removed immediately. For example, a bad batch. Restriction 3: They were a little at odds. That was for
20 Bd. to decide. Garage to the rear where he is storing, door will remain closed at all times except for
21 ingress and egress. In summer, they leave that open.

22 M. Thornton said that was why he was asking about ventilation. A power vent on the roof would
23 alleviate.

24 R. Costantino said nothing there for ventilation in the area now.

25 M. Thornton said that was why he asked.

26 A. Kaplan said they keep doors closed at Liquid Therapy. No complaint unless there is an odor. Doesn't
27 mean you have to keep it closed, but can't be odors coming out. Point 4: Objectionable odors shall not
28 be noticeable outside the premises. Have to look at what you will allow into the district. If complaints by
29 abutters, neighbors, upstairs tenants, and he can't control it, then brewing will cease. Odor must be
30 demonstrable to the town officials. Someone can't say they had a fire in the kitchen and want them
31 closed. Must be deference to the tenants. It was on the industrial to make sure people are not put out.
32 Point 5: Immediate mitigation of the problem. If not immediately, brewing must cease.

33 M. Thornton asked L. Daley if it was a problem and the town investigated, would there be a cease and
34 desist?

35 L. Daley outlined the process: contact the individual who has violated and a written discussion and
36 thereafter there is a violation letter sent out. It is a progression. Probably handle things immediately and
37 have dialog with people and usually settled. He understood A. Kaplan's giving deference about tenants
38 and property owners. That was was subjective. Was that realistic from enforcement?

39 A. Kaplan said he didn't want tenant to be in a back leg in their own apartment trying to convince
40 someone that has this hop smell or sulphur smell – in his research the reason sulphur is so bad was it was
41 detected at very low level.

42 M. Thornton asked, hydrogen sulphite.

43 A. Kaplan said hydrogen sulphite, whatever – the rotten egg smell.

1 W. Ogert they discussed that that was if you had your own wastewater treatment, not the brewing process.

2 A. Kaplan said they may decide you need a treatment in place before it went into sewer. He asked the
3 Keene official if those created odor and was told yes. Maintenance and setup. Those details needed to be
4 ironed out. Point 6: Existing vent be extended per guidance of expert witness. If the stack condenser
5 does it, and the applicant was comfortable with it and it works, fine. But he won't be satisfied if there are
6 odors and they say sorry you have to wait until we get around to it. Needs to be immediate, or operations
7 cease until then. It protects him and tenants upstairs. Needs to be restriction to protect tenants and
8 abutters. He quoted from a source that said "brewery moved in" and talked about "noxious odors from
9 brewing ." J. said can be done. Answer: "was surprised the State allowed them to put in a brewery." He
10 doesn't want the onus to be on tenants to prove it is objectionable. Suggestion on site was to speak to the
11 landlord to see what they could do. There are equipment attachments to reduce odor. He didn't want
12 onus to be on the tenant. Has to be demonstrable to town official.

13 M. Thornton said air ventilations in a residence. What he wanted was no smell in the apartments?

14 A. Kaplan said or business. If no smells, then fine. But guarantees had to be there for everybody who has
15 already invested to build up the downtown.

16 M. Thornton asked if the Bd had the power to put in that kind of stipulation.

17 S. Bonczar said they would discuss that. He said Atty. Quinn wanted to speak.

18 A. Kaplan said zoning came before planning. He thought they went over details of interior If the Bd.
19 decides on restrictions they tie into the plan. He didn't want to go without restrictions and someone
20 comes in and wants to go full scale and you can't stop it because of the way the ordinance is worded.

21 M. Thornton said each is individual.

22 A. Kaplan said because of the way the ordinance is worded, you can't stop them because that was already
23 there.

24 S. Bonczar said to Atty. Quinn re his testimony, he didn't mean he wasn't an expert but he was saying
25 you could bring in multiple experts to say all kinds of things. He didn't mean to demean the expert.

26 Cynthia Dokmo, whose family owns LLC that owns 1 Nashua St, came forward. She said A. Kaplan and
27 Atty. Quinn and Dr. Bower would not be there were it not for the deck. Her family put a considerable
28 amount into that building. Deck was a special feature you could not find, overlook the Oval. If this was
29 enclosed she would not care. She was asking them to protect the investment of her family. Even though
30 W. Ogert was going on a shoestring that was no excuse to not putting in conditions before he began.
31 Even though it might cost him a little money to ensure no problems down the road. It seemed his
32 assurance he would fix it if it was a problem was closing the barn after the horses have left. She didn't
33 expect him to spend a lot to do it but as long as it was done correctly it wouldn't impair value of their
34 investment in the town.

35 T. Quinn, Attorney for Buttermilk Farms, an abutter, came forward. First casualty would be the situation
36 in Nashua because it was not the same neighborhood as this. He talked to people in Nashua and they
37 verified no complaints except for one who said he could smell it from his office at City Hall. T. Quinn
38 didn't know if the windows were open there or upstairs at Martha's Exchange. He didn't know how
39 relative that was to this discussion. He was not trying to contradict every point. Products would not exist
40 if there were not a smell to be mitigated. The condensers designed to handle the odors. Condensers
41 designed so that the vapors generated have to be controlled. You have condensers that trap the steam and
42 then liquidate it and then it goes into a bucket. It doesn't go outside. About 70 to 80% effective. Not a
43 big expense. Can be obtained for hundreds of dollars, not \$10,000. Another thing done is installation of
44 carbon filters.

45 W. Ogert said he looked into it. It was not viable for brewing.

1 T. Quinn said it wasn't for mitigating steam, but for brew process. He discussed with Dr. Bower. Steam
2 in condenser can be brought down in temperature to be handled by the carbon filter. But reducing
3 temperature of the gas to the point where the coal filter works could be costly.

4 M. Thornton asked if he was saying first the condensers and then the carbon filters.

5 G. Bower said the condenser is designed to pull out vapors. Doesn't deal with any odor producing
6 compounds, like alcohol, they are below the point at which you are condensing. Ethyl alcohol will
7 evaporate at very low temp. Condenser couldn't do anything for that. You are taking water vapor which
8 carrying out compound producing odors and removing it from the air stream. Then, if necessary, to go to
9 second step. Even the piece T. Quinn mentioned really simple for putting an existing stack to make
10 discharge well above the roof line.

11 M. Thornton said he did some research. It seemed that, if amenable to the landlord, was the cheapest
12 solution for him.

13 T. Quinn said the reason their proposed condition called for immediate installation of the condenser and
14 carbon filtration system is the reluctance exhibited at the first meeting to do what Dr. Bower suggested,
15 which was raise the stack above the peak of the roofs and adding a fan to increase velocity.

16 M. Thornton said there was already a fan there.

17 T. Quinn said they knew there was a fan but didn't know what it did to the velocity of the stack. Can
18 have analysis done so they know what had to be done to the stack to make it effective. They want that
19 analysis done.

20 G. Bower said 42 ft. per second.

21 T. Quinn said if analysis of the stack was done and showed that will be sufficient with possible addition
22 or upgrade of the present fan – under \$500, likely - if that was done they would be through talking about
23 vapors and they focus on spent grain. Didn't sound like there was any disagreement on that. 48 hours, -
24 that worked.

25 M. Thornton said it was a number they could control.

26 T. Quinn said to do the analysis of the stack and agree what was to be done and the problem goes away.
27 He knows W. Ogert may not have \$10,000 in his pocket but it was a reasonable cost of doing business.

28 To S. Bonczar's point, it was about balancing interests. The whole point was to create districts with
29 similar activities in the same zone. Also to adopt regulations so that people in the zone get along –
30 setbacks, etc. He was asking for a balance of interests. You can do this, but not in a way that is
31 objectionable to your neighbor. In Art. 10, there are five tests to be met. Every one is part of the test
32 implicitly balancing interest of people in the district. He was not objecting to the activity but don't harm
33 our property values in the process. That is what their conditions were about. If the stack is done then
34 their insistence on carbon filtration and condensers will probably go away. But if not analysis of the
35 stack, then they want those.

36 G. Bower said he went to look at the stack and they had photos. Is the stack appropriate? If that was
37 industrial you would never have a stack like that. It is not. It is intend to get fumes from cooking area out
38 Given the height of that stack and location, the peaks of the roofs around , when you have moderate wind
39 velocity from the east or north to the northwest there will be a wake - an air cavity that will trap what
40 comes out. If there is boiling from 9 a.m. on a Saturday morning the people on that deck having lunch on
41 a lot of days would be impacted.

42 M. Thornton said that was why he asked if he was willing to adjust his hours so there was no impact
43 during those hours.

1 T. Quinn said the Bd. wasn't going to get into limiting his hours. His life may change and he may not be
2 able to do it on Sunday. Just don't want him to vent his odors. Reason for other conditions received was
3 to control growth. They don't care how much patrons but don't want, if brewing becomes more
4 profitable than tasting, that tasting goes and brewing become primary. It is a tasting room similar to a
5 restaurant. But if tasting goes away it is not like what is on the Oval and should go to West Milford in the
6 industrial zone. Doesn't want to get into going in and counting tables. Somehow have to make point that
7 this is tasting room and part time brewing. They talked about tasting room and open grain. Talked about
8 if they don't modify the stack then they want those other two. Just looking for a fair shake.

9 S. Bonczar said understood. Adjacent properties and beyond that. He asked if there was anything else.

10 M. Thornton asked if what he thought if you raise the stack and get the velocity above the peak at 42 ft.
11 per second.

12 G. Bower said higher velocity, lower the stack.

13 M. Thornton said that is first condition and from that point would he be willing to go into a condenser. In
14 other words, he raised the stack and if a smell, then get a condenser. But if no odor then no condenser.
15 You have limited negative effect on the neighbors. If they can achieve that with the stack, everything else
16 goes away.

17 G. Bower said nobody expected it would never be an impact even with a perfect stack. When they look
18 at analysis they look at five years of hourly data. Standard is you can't be an impact for two hours. You
19 would not be expecting that level. Might be a time when you smell something at ground level but not at
20 high concentration.

21 W. Ogert said in those two proposals, the condenser built into is least expensive and easiest. The height
22 increase of the stack would be second most. The condenser is easier and would be cheaper option for
23 him.

24 G. Bower said in terms of initial capital, yes. In terms of optimum issue, the condenser is more of a
25 problem.

26 M. Thornton operating cost vs. capitalization.

27 G. Bower said yes. Take the simple way out if you can get it to work. Almost no maintenance. With
28 condenser you have all the cleaning every time you brew.

29 S. Bonczar asked for any other questions.

30 L. Daley said they were talking about adding to or modifying the building itself. It might be good to talk
31 to the property owner.

32 S. Bonczar said they would talk after the meeting.

33 L. Daley said from T. Quinn was a tiered solution. He was hearing from the expert witness that if the
34 stack was extended there will still be an odor that could be identified.

35 G. Bower said he couldn't rule it out, but same with the condenser. If the condenser 80% effective, you
36 have 20% going out the stack so you may still have it on some days.

37 L. Daley said the condenser is connected to the stack regardless.

38 G. Bower said you would still have the non-condensable, the non liquid going out the stack.

39 L. Daley if that was addressed by T. Quinn's suggestion that the carbon filter might alleviate that.

40 G. Bower said correct. But then you are just layering one layer of money on top of another layer of
41 money. It was effective, but there were simpler ways.

1 R. Costantino said there were a lot of breweries around. Not a lot of people complaining or you would
2 hear about it. Trying to figure out why that is. Because they don't have a deck near where they want
3 people to sit outside? Or odor there but no people there?

4 G. Bower said exactly. If he goes into technical literature air control there is a lot of stuff on breweries.
5 In Ontario Canada they have a whole set of regulations re even small breweries. Not a lot of complaining.
6 Most of them do so little. NH would like to see people doing these things. If you set the company beside
7 a restaurant with a patio or a day care there will be impact.

8 T. Quinn said it was a unique juxtaposition of the buildings. A narrow area only 11 ft. wide. A problem
9 for A. Kaplan and his clients. Not only because of the close proximity if you sell it, but also because of
10 the location of stack that same alley accumulates vapors under certain conditions.

11 R. Costantino said he thought they started out saying if there wasn't an outside deck there wouldn't be a
12 problem.

13 S. Bonczar asked if there was anything else.

14 Andrea Kokko of Kokko Realty, Managing Agent for the property W. Ogert was renting. Wanted to
15 point out that he was a tenant and had to abide by the lease agreement. Because there were four
16 residences above that they were very adamant they want restricted. He has to abide by lease agreement
17 that he will not be doing anything to create a disturbance to the residents. These types of things are a
18 concern to a landlord. If it became a problem for the tenants they would have to address these types of
19 things. They want to encourage growth and new business downtown and have worked cooperatively with
20 neighbors with the construction going on. She found the Nashua example very interesting because
21 Martha's was a little bit of the same scenario where it vents out the second floor and third floor tenants.
22 Last year she had trash not picked up for a week because of construction and three people complained
23 about the smell. When getting into these mixed residential commercial districts the residents complain
24 about issues. Very telling there were no complaints in Nashua. Just wanted to let the Bd. know that as a
25 landlord they would be addressing any issues.

26 M. Thornton asked if she was the landlord.

27 A. Kokko said she was the agent for the landlord.

28 M. Thornton it was sheet metal it was cheaper to do over time. It was easier for tenants and everybody
29 else. Everybody in the audience concerned and he would like to address that in stipulations.

30 S. Bonczar said they would get to that. He would state his opinion.

31 A. Kokko said she didn't foresee it; but she was not the official owner and would have to go to them.

32 A. Kaplan said he knew Andrea and believed they would address issues upstairs. But one thing it went
33 back to since this ran with the land, if in ten years or a year from now W. Ogert is very successful and
34 buys it outright and says everyone out. Can't rely on the landlord. He believed the landlord and A.
35 Kokko would address issues. It was permitted until it was abandoned. Only thing that had teeth were
36 restrictions. He knew Nashua had breweries but it was different/. Main St. expanded out was 250 ft.
37 from one side to the other. Trying to say be careful what you allow in. One asking for a brewery and
38 then you may have five or six unrestricted, Town may have confusing issue if it was not addressed from
39 the get go. He believed Nashua didn't need special exceptions because it was a different district. People
40 in a town of 90,000-plus might expect odors that people in Town of Milford with 15,000.

41 S. Bonczar asked for any other questions. None. He closed public comment. He said a lot of testimony,
42 information and documentation were presented. He let them know he sat now. He had to go through five
43 special exception criteria. Based on where they stood, re the use as developed will not adversely affect
44 the adjacent area. He had issues. The burden of proof on the applicant. They talked about potential
45 odors and how to handle those. He was not an expert and no one on the Bd. was. Wished they should

1 have seen an engineering solution. That hadn't happened. They put conditions on it. Some not difficult
2 - maximum amount of barrels and handling of byproduct. Vents are a difficult one. L. Daly mentioned
3 several of them. Personally he did not like that. If not this, try this. Makes it difficult for Town to
4 enforce. Would like to see an engineered solution and look at that and say, based on looking at that and
5 engineer proposes that the condenser would be sufficient or not, the stacks had to be this height, etc.

6 Trying to be fair to the applicant and everybody else. Didn't know if it would pass but if they put
7 conditions on and can't answer this, then it is a done deal. It was a legitimate solution but they don't
8 know it. No guarantee but he would feel more comfortable with stated and clear conditions for that
9 particular site. Every property was unique. What were the specifics of that property? He wanted to get
10 the feeling of the Bd.

11 M. Thornton said that was a good point. Why saddle W. Ogert with doing things that were expensive and
12 may or may not alleviate the odor problem. He didn't know how much a study would cost. If he had an
13 engineered solution that said over time this was most effective as absorbability solution. If it was not,
14 then do this. What was the cost and was applicant prepared to bear it?

15 S. Bonczar said otherwise they risk not passing it; once they say no, it is no. They can't come back and
16 redo. Not convinced, based on that variable of venting, it would mitigate the potential odors.

17 M. Thornton said each process was a decrimmentation. Will never get to zero.

18 S. Bonczar said never say never, but heard from abutters the big issue was effort to mitigate and they had
19 concrete proof a certain thing would mitigate based on engineering design it would be. They could go
20 through and vote on it or continue this again and ask if the applicant wanted to continue with this or
21 willing to go to get an engineering study.

22 R. Costantino said make an engineering study a condition.

23 S. Bonczar said it would already be approved or not [at that point].

24 R. Costantino asked S. Bonczar if in his mind it was okay to approve with the condition.

25 W. Campbell said he didn't know what that was.

26 M. Thornton said they were going on feelings. Not comfortable with that. Get the facts.

27 S. Bonczar said get a design. Not we'll do nothing and if this happens and if that doesn't work, we will
28 do this. Wanted a concrete proposal to make a decision. Or else each trying to answer these questions in
29 the positive, didn't think he could. Might be in that sense, be short sighting the applicant. If they said no,
30 that would be short sighting the abutting property owners.

31 M. Thornton said it was the Oval's proximity.

32 S. Bonczar said it was unique characteristics of that property. The closeness to adjacent property. He
33 agreed you look at the alley and it was downhill from the library. Could odors hang in there? Didn't
34 know. Heard testimony that raising vent would help. How much?

35 M. Thornton asked if the landlord would permit that.

36 S. Bonczar said that was a different story. They could approve it, say it had to be this type of design, and
37 if not, do you want to go through with it.

38 R. Costantino heard 42 ft per second.

39 S. Bonczar said that was not based on this site.

40 R. Costantino wasn't sure that was true.

41 S. Bonczar asked what about height of the stack? Or condensing sufficient?

1 R. Costantino asked what kind of design S. Bonczar would accept.
2 S. Bonczar said an engineering design showing, based on that size operation, in order to remove vapors
3 and mitigate odors from hanging over there, a certain percentage of success, the stack has to be, say, 50 ft.
4 taller. He asked K. Lagro if she felt she had enough to decide. He never thought it would be this
5 complicated. Wanted to get it right.
6 R. Costantino asked if he felt they could not write a condition.
7 W. Campbell said, and hold to it.
8 S. Bonczar said no. Would rather approve a design that addressed abutters' concerns and based on that
9 particular site.
10 M. Thornton said and town could see if they were in place or not.
11 R. Costantino asked if they wanted to table it.
12 M. Thornton said or continue.
13 S. Bonczar said continue. It would tabling decision tonight and continuing it to get an engineered design
14 for venting system that size operation. He wouldn't say, but there were some other conditions re size of
15 the operation, but those were fairly easy. What kind of conditions for the venting – he could not propose
16 one now.
17 R. Costantino asked if a continuation would not be for next week, but when the plan was available?
18 M. Thornton thought when they continued something it had to be for a date certain.
19 S. Bonczar agreed. But asked applicant how long he would need to get that information.
20 L. Daley said it would be continued to next scheduled meeting or a months later, and if applicant was not
21 prepared then to the next available meeting after.
22 K. Lagro said limiting the number of barrels, storage of waste. Those were addressed. Only remaining
23 issue was mitigation of odor.
24 M. Thornton mentioned his brewing time.
25 K. Lagro said that didn't matter if you have an engineered design to mitigate odor as much as possible.
26 M. Thornton said it was less of a concern.
27 K. Lagro said you were never going to mitigate everything. The exhaust from cars on a hot day, etc.
28 M. Thornton said with high pressure and gentle wind it will swirl and go down.
29 K. Lagro said that was the only remaining issue.
30 S. Bonczar and M. Thornton agreed.
31 M. Thornton said right, but deal with facts.
32 R. Costantino asked they needed a motion.
33 S. Bonczar said yes.
34 L. Daley said that the time of the last meeting they asked the applicant t do a number of items and this
35 was additional.
36 S. Bonczar agreed they completed those. Based on testimony of abutters and concerns and expert witness
37 and even what was presented by applicant, he didn't' feel comfortable, and didn't think the Bd. was -
38 doing anything beyond discussing.

1 L. Daley emphasized that the Bd. be very clear what they were asking.
2 M. Thornton said a study that said if you do 1, 2 & 3, it will have an exceedingly good chance to mitigate
3 noxious odors. How do you do that?
4 S. Bonczar said they needed an engineered design and data to back up that design.
5 M. Thornton asked for a design that mitigated odors to what extent? 99%?
6 W. Campbell said they would have to wait for what the engineered study produced.
7 M. Thornton was trying to quantify a result.
8 W. Campbell said 100% wouldn't happen
9 K. Lagro said they should not put a number on it.
10 M. Thornton said he was trying to quantify a result.
11 S. Bonczar would like to get this design and mitigate 90% or whatever. W. Ogert knew they wanted to
12 mitigate as much as possible based on testimony and design has to fit that location.
13 K. Lagro said he may come back and say what he had was adequate, or say he only had to do this one
14 solution and that would be adequate.
15 S. Bonczar agreed.
16 M. Thornton said even with engineering plan that said this one thing will take care of it, he liked the "if,
17 then else. Because it was a certain progression of events. If you do not mitigate and they were pervasive
18 then you must do something else. It was incumbent on him [speaking of himself] to take care of his
19 property; if not, the Town can take action.
20 S. Bonczar said they were not experts in that.
21 M. Thornton said the town was.
22 S. Bonczar said if you have an expert design and prove that through the design it will mitigate a
23 percentage, then for him "C. The use as developed would not adversely affect adjacent area", then for
24 him, if the design was right and the expert explained how design worked, he could answer yes. Right
25 now he couldn't. Maybe everybody else on the Bd. could.
26 M. Thornton said he felt for abutters.
27 S. Bonczar understood where they were coming from.
28 M. Thornton said he also felt for the applicant. There was a tremendous lack of quantifiable subject
29 matter and a study that would address that. Didn't know how much it would cost, but that was not the
30 Bd.'s problem.
31 L. Daley said another discussion was management and storage of waste.
32 S. Bonczar said that was spelled out.
33 M. Thornton said what made sense was an accessible enclosure that was not dependent on access through
34 an alley that was not always accessible.
35 L. Daley said he heard a mixture of possibilities. He said, along the same lines as discussion for the
36 venting, he would encourage the Bd. to also request that the applicant provide a written management plan
37 for storage and removal of waste.
38 S. Bonczar was okay with that.

1 R. Costantino suggested a motion: Provide an engineering design to adequately mitigate the odors from
2 adjacent properties and explain the design as an adequate solution.

3 M. Thornton said L. Daley brought up a written plan for management of waste. Add that.

4 S. Bonczar asked if they wanted two motions.

5 M. Thornton said or one that included both.

6 S. Bonczar said L. Daley had a good point about a crisp definition. W. Ogert did explain how he intended
7 to handle the byproduct waste. Need something formal in writing. A management plan for byproduct
8 waste removal, storage, timing, etc.

9 M. Thornton said they were talking about 50 gallon barrels. Even dry grain in a 50 gallon barrel was
10 heavy. How was a farmer going to pick it up?

11 S. Bonczar said that was where management plan came in.

12 R. Costantino said removal, timing, and what?

13 S. Bonczar said removal, timing, storage location, and he thought they needed a proposal or estimate from
14 a commercial hauler. He didn't necessarily have to have a contract in place, but an estimate for a removal
15 schedule, etc. The farmer thing will be variable.

16 R. Costantino said just say removal details.

17 S. Bonczar said removal details with a commercial contractor hauler. He asked applicant if he was open to
18 those suggestions if they make a motion to continue this case, vs. taking a vote tonight which may or may
19 not go in his favor.

20 W. Ogert said he would have to look into the expense of engineering design, which may eat up his entire
21 startup budget. He said to let him see what he could find for firms that do that kind of study and the
22 average cost of that and proceed from there. He was in agreement with additional stipulations proposed
23 but will have to check expense of getting an engineering plan.

24 S. Bonczar said they would make a motion to continue. Would like to ask if they continue it, would he
25 like to continue it a month out?

26 W. Ogert asked if they continue to two weeks and he is unable to it in that time, can he contact the Bd. at
27 that time and ask for a postponement?

28 S. Bonczar and L. Daley said yes.

29 W. Campbell said he felt more comfortable.

30

31 R. Costantino then said the **two motions:**

32

33 1. To provide an engineering design to adequately mitigate the odors from the adjacent properties
34 and explain the design was an adequate solution to this problem.

35 2. To provide a written management plan regarding byproduct waste regarding removal, timing,
36 storage location and removal details with a commercial contractor or hauler.

37

38 M. Thornton said it sounded like S. Bonczar wanted to see that as a subset of the waste management plan
39 proposal of the whole.

40 R. Costanino suggested: Will provide written removal details.

- 1 S. Bonczar said also to continue the meeting.
- 2 R. Costantino said a motion to continue the meeting to provide the information to June 6.
- 3 K. Lagro seconded all those motions.
- 4 All in favor.
- 5 Case was continued to June 6.
- 6 S. Bonczar said those requests in those motions would be available in the minutes.