

**Town of Lenox**  
**Zoning Board of Appeals**  
**December 1, 2021 6:00 p.m.**  
**Via Zoom**

**Members Present:** Robert Fuster Jr (RFJr); Al Harper (AH); Ned Douglas (ND); Jedd Hall (JH); Cliff Snyder (CS)

**Staff:** Jessica Cote, Land Use Assistant;

RFJ opened the meeting at 6:01pm. The meeting was recorded.

**1. Minutes for Approval – October 20, 2021 and November 3, 2021**

- ND moves to approve minutes from October 20, 2021 and November 3, 2021. AH seconds. All in favor 5-0.

**2. Yokun Ave Special Permit Extension Application**

- Jeff Lynch, attorney for the applicant, presented the application. Coming before the board to ask for another two-year period of time. Primarily due to COVID. Industry for treating eating disorders is in flux right now and a lot is done through virtual counseling. It has led Yokun 107 not knowing the best treatment option for patients. Also, future employees/operators have changed due to COVID. Due to COVID everything changes week to week and for these reasons the owners do not want to lose what they worked hard for since the original permit was granted.
- Applicant would like another two years to assess the industry and what can really happen at the site with the changing world landscape.
- AH asked is this simply an interim step to come back in another two years or is there funding in place. Attorney Lynch responded that funding is not currently in place but the entire medical industry is in flux as well as prospective investors.
- RFJr opened the hearing to Public Comment:
  - Bill Martin, attorney representing a direct abutter (George Krupp) - Procedural question regarding the date of the last extension. Does the clock start when the decision is filed or after the appeal period?
- The Board discussed and determined that it would be best to get input from Town Counsel.
- AH moves to continue hearing to get opinion from Town Counsel. ND seconds. All in favor 5-0.
- RFJr moves to continue to January 5 at 7pm. AH seconds. All in favor 5-0.

**3. 41 Tucker Street Special Permit Application**

- Kimberly Duval, owner of 41 Tucker Street, presented why she is before the Board again. The Building Department gave the owners an Enforcement Order due to a deck that was built bigger than what was granted in a Variance from July 2020. Kim explained that she hired a local contractor and work began based on the Variance granted in July 2020.

- This summer the deck was beginning to be built. Owners let the contractor know that they wanted to extend the deck. Contractor stated that they would get the necessary permits.
- Kim stated that the contractor did not get the necessary permits from the ZBA and submitted for the building permit after the deck was completed. Building Department denied the permit because there wasn't the necessary SP in place.
- Kim stated that she thought the contractor would be amending the special permit and that is not what happened.
- In front of the Board to modify the permit that was granted in July 2020.
- ND moves to adjourn public hearing, JH seconds. All in favor 5-0.
- The Board discussed the application and AH moved to grant permit. ND seconds. All in favor 5-0.

#### **4. 0 Pittsfield Road (Map 22 Parcel 27) Special Permit Application – Continued from November 3, 2021**

- A site visit was completed on November 2, 2021.
- Alex Glover, attorney for the applicant introduced members of the team including Rob Trask (petitioner), Steve Savaria from Fuss and O'Neill and Steve Mack from Foresight Land Services.
- Rob Trask presented intent with project for people of the county to dine and appreciate our beautiful area including seasonal outdoor seating, casual dining, and full bar with beer made on site.
  - "The brewpub would offer a comfortable atmosphere that would serve all demographics and create a sense of community among its patrons. The atmosphere of the brewpub and grounds would be that of a woodland effect with mature forest and distant views, what we consider to be representative of the Berkshires. The interior would offer wood finishes and a large fireplace in a lounge area, furnished with couches and club chairs. The remainder of the dining area would offer table seating surrounded by windows, offering distinctive views of the surrounding forest and mountains. The outdoor seating would be located on a covered pavilion, the location of which is shown on submitted plans. Background music may be playing throughout the interior and exterior customer areas. Live entertainment would be offered at various times throughout the year. The entertainment is envisioned to be styled as a more intimate experience with stand-up comedy acts, small theatrical groups and small bands, preferably on an acoustic level whenever possible. The entertainment would be offered either inside or outside based upon seasonality, weather, and the type of experience we are looking to provide at the time. Outdoor passive recreation would include various yard games for the entertainment of guest, as well as hiking trails on the property."
- Steve Mack presented the plan and how the brewpub will be situated on the lot. Entire parcel is wooded and undeveloped. Access road across from Lime Kiln Road will lead up to the Brewpub and traverse the slope of the land due to some ledge on. Building is

sited to shield neighbors of the outdoor space on the property that will house outdoor dining and outdoor entertainment. Parking will not be visible from Route 7/20 to allow for a view from the Brewpub to the West. Evergreens will be planted in front of parking as added protection from Route 7/20. Building elevation is 6 feet lower than the grade area of the property. Fence on south side property with planted evergreens to add additional measure to shield the 12 Oaks residential development abutting the property. Steve provided letter in application from Lenox Fire Chief that a 20' wide road is safe for fire apparatus.

- AH asked for detailed letter from Chief Fire about the road and the boilers on property.
- Site served by Town water and sewer. Storage tank on site for off-peak flow. Two 6000-gallon tanks.
- Steve Savaria from Fuss & O'Neill reviewed the traffic study.
- Collecting traffic and traffic safety data within vicinity of site and what new trips would be generated by new use and what those additional trip impacts would be on traffic conditions. All traffic data was collected in May of 2021.
- 69 vehicle trips total between 4pm and 6pm which are enter and exit trips. Will not increase traffic demand during this time with 6000 trips during this time.
- Reviewed safety criteria of proposed access and operation and visibility conditions. Did measurement from proposed site driveway, measured of 600 feet in either direction and more than adequate for safe operation at typical operating speeds.
- Crash history over the most recent three years at Lime Kiln Road was presented; MassDot had a total of five crashes which is about .19 per million entering vehicles.
- AH and CS have concerns about this establishment being a brewpub which seems to be more about drinking than eating and they would both like more information in regards to safety at this intersection with figures specific to a brewpub and not a restaurant.
- There were concerns from the Board with regards to traveling south trying to turn into establishment and people leaving trying leave and travel south.
- CS has question about odors and noise with the brewpub manufacturing and would like more information provided at the next meeting.
- Attorney Glover reviewed the use of the establishment per the Lenox ZBL as an "eating place..." (ZBL 5.2.F.1). It is a place where food and beverages are served like any other restaurant. Some of the beverages to be consumed (beer) will be produced onsite and served in the restaurant area.
- It was asked if this is a brewery. Rob Trask explained the difference between a brewery and brewpub. Breweries just produce beer and can visit and purchase the beer at the brewery however there is no food prepared on site. A brewpub is different in that it is a restaurant that also produces some of its own beer. An example was Barrington Brewery in Great Barrington that is a restaurant that also brews its own beer.
- ND moved to continue hearing until January 5, 2022 at 6pm. AH seconds. All in favor 5-0.