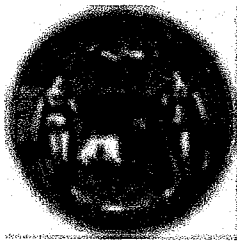


men



CITY OF NEWBURYPORT
 ZONING BOARD OF APPEALS
 60 PLEASANT STREET • P.O. BOX 550
 NEWBURYPORT, MA 01950
 (978) 465-4400
 WWW.CITYOFNEWBURYPORT.COM

582559 (77829) Btch:470159
 Southern Essex District Registry
 5/17/2017 10:26 AM VAR Pg: 1/4

RECORD OF PROCEEDINGS AND DECISION
 FOR A USE VARIANCE

An application for a Use Variance was filed by:

Bergeron Technical Services LLC
 P.O. Box 241
 North Conway, NH 03860-0241

for property owned by **Richey Properties LLC** on the following request:

convert about 19,400 s.f. of existing building to a brewery and allow a tap room (Use #501)

The application was filed at the City Clerk's Office on **01/19/17** under the Zoning Ordinance Section X-H.3 Powers of the Board and Section **V.D Table of Permitted Uses**.

The application is for the premises at **40 Parker Street** in the **I1** Zoning District, as indicated in the Newburyport Assessor's Office as map and parcel **81-13** and recorded in the Essex South District Registry of Deeds as Book and Page **DOC44/6757**. The newspaper notices for the public hearing were posted on **01/30/17** and **02/06/17** in the Newburyport Daily News.

A public hearing was held for the above application on **02/14/17** at 7:15 p.m. at which time the Board heard the petition for a Use Variance. After the close of the hearing on **02/14/17**, upon motion made by Member **Robert Ciampitti** and duly seconded by Member **Renee Bourdeau**, the Board voted to APPROVE the petition for the Use Variance.

The following members present and voting, and voting as follows with respect to the petition:

Robert Ciampitti	<u>Yes</u>	Richard Goulet	<u>Yes</u>
Renee Bourdeau	Yes	Maureen Pomeroy, Associate	<u>Yes</u>
Edward Ramsdell, Chair	<u>Yes</u>		

Having received the necessary two-thirds super majority vote or all the members of the ZBA, in accordance with M.G.L. c.40A, Section 10, as adopted, the petition for the Use Variance was therefore **APPROVED**.

This decision was filed with the Newburyport City Clerk on **02/21/17** and sent registered mail to the applicant and by regular mail to the Parties in Interest and the abutting Municipalities.

FINDINGS

After the public hearing, in accordance with the criteria set forth in the City of Newburyport Zoning

Ordinance Section X-H-6 Variances, the Newburyport Zoning Board of Appeals made the following findings:

The applicant is proposing to locate Riverwalk Brewing's manufacturing process with an accompanying tasting room in an existing space within the Mark Richey Woodworking building. This building is also home to Metrorock Climbing Center. The applicant is requesting a Use Variance to allow the tasting room, which is considered an A-2 Nightclub Assembly, Use #407, which is not allowed by-right in the I1.

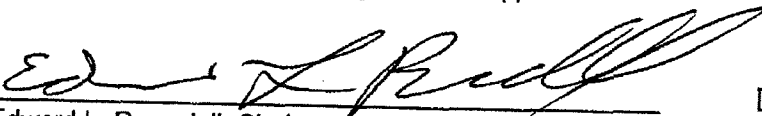
1. Conditions and circumstances are related to the soil conditions, shape, topography of such land or structures especially affecting the property for which the Variance is sought, and generally do not affect the Zoning District in which the property is located.
2. The footprint of the structure is not changing; all proposed renovations are interior with the exception of some new windows/doors in the tasting area.
3. There is sufficient parking to accommodate this new use in addition to the existing uses.
4. There is a substantial hardship, financial or otherwise, which results from the literal enforcement of the applicable zoning restrictions with respect to the land for which the variance is sought.
5. Relief sought will be desirable and without substantial detriment to the public good.
4. Conditions and circumstances are unique to applicant's lot, structure, or building and do not apply to the neighboring lands, structures, or buildings in the same district. The shape and topography of the subject lot is unique.
5. Strict application of the Ordinance would deprive the applicant of reasonable use of the lot in a manner equivalent to the use permitted to be made by other owners of their neighboring lands, structure, or structures in the same district.
6. Relief sought may be given without nullifying or substantially derogating from the intent or purpose of the Ordinance. The use in no way nullifies or derogates the intent of the ordinance as it fully conforms to that permitted in the area.
7. The unique conditions and circumstances are not the result of the actions of the applicant taken subsequent to the adoption of the Ordinance.
8. Relief will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the District. The grant reflects relief consistent with the area and its limitations are consistent with the ordinance.
9. In accordance with the applicable provisions of Sections II-B.46a, X-H.6.Q, and X-H.7.B.10 of the Newburyport Zoning Ordinance the Board found that the modest scope of the project will not trigger these provisions.

CONDITIONS OF APPROVAL

The following conditions do not limit any other rights and remedies the City of Newburyport may have.

1. This Use Variance will not take effect until a copy of the decision bearing the certification of the City Clerk of Newburyport is recorded in the Essex County South Registry of Deeds under the name of the owner of record or is recorded and noted on the owner's certification of title. The fee for recording or registering shall be paid by the owner or applicant.
2. The rights authorized by this Use Variance shall lapse if not exercised within one year from the date of granting.
3. The construction and/or use of these premises shall conform to the plans, information, conditions, and any revisions as approved by the Zoning Board of Appeals.

Undersigned Chair of the Zoning Board of Appeals


Edward L. Ramsdell, Chair

Date: 02/21/17

CERTIFICATION OF CITY CLERK

I, Richard Jones, City Clerk of the City of Newburyport, hereby certify pursuant to M.G.L. Chapter 40A, Section 17, that the decision for the property known as **40 Parker Street** was filed in the Office of the City Clerk on **02/21/17**.

Pursuant to M.G.L. Chapter 40A, Section 11 this decision was also filed with the Newburyport Planning Board on **02/21/17**.

Twenty (20) days have elapsed since the decision was filed and **NO APPEAL** has been filed. Appeals shall be made pursuant to M.G.L. Chapter 40A, Section 17 and filed within (20) twenty days after the date of filing of this decision in the Office of the City Clerk.


Newburyport City Clerk

Date: MAR 28 2017