

**City of Salem
Approved Minutes
Joint Public Hearing
of the Planning Board and City Council
April 21, 2016, 6:00 P.M.**

The Planning Board will hold a joint public hearing with the City Council on Thursday, April 21, 2016 at 6:00 P.M. in the City Council Chambers, City Hall, 93 Washington St., Salem, MA in accordance with Chapter 40A, Section 5, of the Massachusetts General Laws to consider the following petition to amend the City of Salem Zoning Ordinance Section 10.0, Definition of a Tasting Room by deleting:

“A tasting room may not be greater than thirty-three (33) percent of the main building’s gross square footage.”

And replacing it with:

“A tasting room may not be greater than fifty (50) percent of the main building’s gross square footage. A seasonal tasting area, e.g. patio or deck, shall not be included in calculating the tasting room’s square footage.”

The purpose of the public hearing is to provide interested parties with an opportunity to comment on the proposed amendment.

The complete text of the proposed amendment to the Zoning Ordinance is on file at the office of the Department of Planning & Community Development, City Hall Annex, 120 Washington Street, Salem, Massachusetts, and are available for inspection during regular business hours.

A joint public hearing of the Salem Planning Board and the Salem City Council was held on Thursday, April 21, 2016 at 6:00 p.m. at City Council Chambers, City Hall, 93 Washington Street, Salem, Massachusetts.

City Council president Josh Turiel opened the meeting at 6:00 pm.

Roll Call

Planning Board: Matt Venio, Vice Chair, Kirt Rieder, Dale Yale, Bill Grisct, Noah Koretz and Carole Hamilton, Tony Mataragas. Absent: Ben Anderson, Chair, Helen Sides

City Council: Arthur Sargent Councilor at Large; Thomas Furey Councillor-at-Large; Elaine Milo Councillor-at-Large; Robert McCarthy Ward 1 Councillor; Heather Famico Ward 2 Councillor; Stephen Lovely Ward 3 Councillor; David Eppley Ward 4 Councillor; Josh Turiel Ward 5 Councillor; Beth Gerard Ward 6 Councillor; and Stephen Dibble Ward 7 Councillor. **Absent:** Jerry Ryan Councillor-at-Large

Also present: Amanda Chiancola, Staff Planner, Lynn Duncan Director of Community Planning and Development, Elizabeth Rennard, Esq., City Solicitor, Mayor Kim Driscoll, and Stacy Kilb, Planning Board Recording Clerk.

Lynn Duncan presents. This amendment would provide more flexibility for the breweries and wineries that have opened since zoning was put in place, and those that will be opening soon. The ordinance was silent on seasonality before, and the revision will expand the definition, increasing the square footage. A seasonal, outdoor patio or deck would not be included in that square footage.

Exact wording regarding coding, as per the City Solicitor's recommendations, is outlined. Councilor Famico asks what this would mean for plumbing and building codes, and what other changes are required. Ms. Duncan elaborates; outdoor seating counts toward all of the other codes, such as number of restrooms required. This would be the same as for a restaurant that has an outdoor seating area. Councilor Famico also wonders about collaboration between the Fire and Building Departments. Mayor Driscoll elaborates on the fire and building codes, and how "one stop meetings" are now held. Fire and Building Departments have a collaborative relationship. Councilor Famico supports the outdoor seating.

Councilor McCarthy comments on the code and how an increase in size will trigger certain changes/compliance issues. That is most likely the Building Inspector's concern. Any assembly places must conform.

Councilor Dibble asks about the need to limit the size of the outdoor seating area. Ms. Duncan states that the size of the outdoor seating is not included, so becomes part of site plan review. This is due to its seasonality; building codes must still be met including this space, however, and this will constrain its size. Councilor Dibble confirms that they do not need to concern themselves with square footage; he feels that is a gray area and wonders if it should be linked to size of building.

The City Solicitor comments on procedural and zoning ordinance issues. The original intent was to allow small breweries to make and share their product while not going above and beyond liquor license quotas to create bars.

Councillor Dibble expresses his concern about the potential size of the outdoor seating areas; if not limited, there could be an unacceptably large number of patrons there. Mayor Driscoll comments that the current system is too cumbersome and even if it is

streamlined, breweries will still need to come before the relevant licensing boards, which will keep them in check.

The City Solicitor comments on the approval of floor plans; while Councillor Dibble is in support, he is still concerned that a loophole is being created, but the various regulatory checks are outlined again.

Councillor Famico asks about portapotties; they may only be brought in for a particular event. Kirt Rieder asks about the definition of seasonality; the term “patio or deck” suggests an outdoor location, however if indoors would be considered part of the 50% calculation. The Building Commissioner would determine square footage vs. chairs/standing room.

Councillor Eppley suggests “and an exterior seasonal tasting area is permissible” as an addition.

The hearing is opened to public testimony, beginning with those in favor of the proposed changes to the ordinance.

In favor:

Chris Loring of 19 Carlton St., Notch Brewery. Mr. Loring describes how this change will affect brewery operational models; it will impact smaller breweries, which rely more on their retail areas, more. Many such breweries grow quickly, benefitting everyone. He comments that the percentage square footage is somewhat self-regulating, as production must meet demand.

He says this hybrid model is new and adds that wholesaling is not as profitable, emphasizing the importance of the retail end of the business. He describes some of the obstacles he faced during the permitting process; all permits were obtained, but then the building department claimed an additional restroom was needed as outdoor seating was not included in the ordinance. Mr. Loring comments that some in City think this is a new use, but it is similar to what has happened for centuries. He describes his family history and how much it means to him.

He also mentions “fear of a bar.” While these breweries are not restaurants, they will offer snacks since it is the responsible thing to do. They are trying to showcase their craft and to be called a “bar” is somewhat insulting.

Denise Snape of 38 English St. is the owner of Far from the Tree Cider. She is also in support of the change, and describes her facility and the permit that they currently have. They are not a bar or restaurant, having no kitchen. The goal of a tasting room is to connect the producer with the consumer. She also describes her permitting process and how she also was met with some resistance regarding the outdoor seating. She is in favor of the amendment, however believes it should have NO square footage mentioned, as that

is detrimental to small producers. She outlines her setup and buildings, which are somewhat unique.

She does not wish to add another restroom, but only to allow people to sit outside. She describes how their business has benefitted Salem.

Salem Chamber of Commerce representative spoke in support of the ordinance, and feels this enhances the industry. The local restaurant scene is in support as they complement each other.

Paul Gentilly of 25 Rowell Ave, Beverly, opened Gentilly Brewing Co in that city, and had a good experience there. He describes the process and the zoning of his business and how it fits in. The main purpose is to make beer, while the tap room is to serve beer as an auxiliary. The Planning Board and building code were concerned with design, and no percentage was involved. He worked with an architect to design space that could work as a brewery and tap room. He also mentions the self regulatory aspect of the business. A certain square footage is needed to make beer to serve in the taproom. Without the taproom, or if a limit imposed on it, he would not have had a business. He mentions his excellent turnout and the fact that he is making a profit after 7 weeks. The business will grow and he is manufacturing downtown. The taproom itself could not exist without the brewery, but a brewery is not economically feasible without a taproom as wholesale to restaurants is not profitable.

There is no public opposition.

Matt Veno asks about the rationale behind the existing and proposed percentage. The City Solicitor elaborates. Models around the country were explored. Space should be allowed for customers to enjoy the products, and 50% seemed to be a reasonable number, while excluding seasonal outdoor seating areas in order to meet building code.

Noah Koretz asks about rationale for having any percentage limit at all, given that two people said it itself is limiting and one said 50% makes it difficult. He also comments on how this number seems arbitrary.

Lynn Duncan responds that the 50% is proposed to keep a balance between manufacturing and the tasting room. Ms. Duncan also discusses procedural options for changing the proposed amendment. All changes made to would need to fit within the four corners of the article. The amendment was advertised as 50%; therefore, changes beyond 50% cannot occur at this meeting. It may be preferable to pass it "as is" to avoid delaying the development of the businesses in question, then revisit later, than to start the process over again. The setups of the various breweries are described.

The two Salem brewery owners state that while not ideal, they can work with the proposed amendment. It is unclear if seeking a variance from the Zoning Board of Appeals would be an effective measure they could take if they wanted more space.

Mayor Driscoll comments that this ordinance is new and involving, the amendment was meant to attract and help these types of businesses. The initial fears of the bar room issue was a mechanism that led to the original percentage. We thought we were being helpful by increasing the percentage, and we do not want to have unintended consequences. She describes how its development progressed and feels that although it has room for improvement, the amendment should be passed tonight and changed later if need be.

Councillor McCarthy moves to close the public hearing, is seconded Councilor Eppley, and all are in favor.

Councillor McCarthy moves to pass the matter to the Planning Board, is seconded Councilor Eppley, and all are in favor.

Moves matter moved to Planning Board, seconded by Councillor Eppley, all in favor.

Councillor Furey motions to adjourn, is seconded by Councillor Eppley, and all are in favor.

The hearing ends at 7PM.

For actions where the decisions have not been fully written into these minutes, copies of the decisions have been posted separately by address or project at:

<http://www.salem.com/planning-board/webforms/planning-board-2016-decisions>

Respectfully submitted,
Stacy Kilb, Recording Clerk

Approved by the Planning Board on 05/05/2016

Know your rights under the Open Meeting Law M.G.L. c. 30A § 18-25 and City Ordinance § 2-2028 through § 2-2033.