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BOARD OF APPEALS

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CITY CLERK
SALEM, MASS

October 4, 2017

Decision

City of Salem Board of Appeals

Petition of EAST REGIMENT BEER CO. seeking a special permit per *Sec. 3.0 Table of Uses* of the Salem Zoning Ordinance, to allow a microbrewery with a tasting room and outdoor seating area at the property of 30 CHURCH STREET (Map 35 Lot 445)(B-5 Zoning District).

A public hearing on the above Petition was opened on September 20, 2017 pursuant to M.G.L Ch. 40A, § 11 and the hearing was closed on that date with the following Salem Board of Appeals members present: Rebecca Curran (Chair), Peter A. Copelas (Vice-Chair), Mike Duffy, Jimmy Tsitsinos, and Tom Watkins.

The Petitioner seeks a Special Permit per *Sec. 3.0 Table of Uses* of the Salem Zoning Ordinance, to allow a microbrewery with a tasting room and outdoor seating area.

Statements of fact:

1. In the petition date-stamped July 25, 2017, the Petitioner requested a special permit per *Sec. 3.0 Table of Uses* of the Salem Zoning Ordinance, to allow a microbrewery with a tasting room and outdoor seating area.
2. Attorney Scott Grover and Scott Perry, owner of East Regiment Beer Company presented the petition.
3. The petitioner is proposing to place the microbrewery in the basement of the building and a year-round outdoor seating area. The proposed outdoor seating area will be located adjacent to the building on the east side and be approximately +/- 915 square feet.
4. The property is located in the B-5 Zoning District.
5. The petitioner is proposing a microbrewery with a tasting room and outdoor seating area in an existing mixed-use structure. Other uses within the building include a pizza restaurant and professional offices.
6. The petitioner has registered with the FDA and has received the federal brewer's license required for this use. The ABCC of Massachusetts has reviewed the building and the state licensed is pending the decision of the Zoning Board of Appeals.
7. The proposed microbrewery will be a three (3) barrel system and the product will be kegged at this location.
8. The petitioner will be contracting with a compost hauler to remove spent grain from the location. No trash will be stored outside.
9. The petitioner is proposing to use a high efficiency system to limit the amount of water used as much as possible.
10. The basement unit of the building is approximately +/- 1,500 square feet.

11. The outdoor patio is proposed to be on property that is owned by the Salem Redevelopment Authority. At the public hearing, the petitioner acknowledged that they will need to go before the Salem Redevelopment Authority for permission to use this public planting strip for the proposed outdoor seating area.
12. The proposed hours of operation for the microbrewery is 6am -12am seven (7) days a week and public hours of operation are proposed to be between 12pm and 12am seven (7) days a week.
13. The petitioner is proposing to use the existing right-of-way next to the building off of Church Street as a short term loading area for the business. The loading required for this business will not have a negative effect on traffic or circulation.
14. Two (2) members of the public expressed concern about additional noise that may come from the proposed outdoor patio area as a result of this business.
15. The petitioner expressed that there are other offices within the building with late hours of operation, and the brewery does not want to negatively impact these businesses or neighbors. The business will not be hosting live music outside or playing loud music that will negatively impact the surrounding neighbors.
16. The requested relief, if granted, would allow a microbrewery with a tasting room and outdoor seating area.
17. At the public hearing, two (2) members of the public spoke in opposition and two (2) members spoke in favor of the petition.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petition, including the application narrative and plans, makes the following **findings**:

Special Permit Findings:

1. There are social, economic and community needs served by the proposal as the petitioner is proposing a use an underutilized space that will help activate this space. Additionally, this business is offering a unique experience and use in the downtown as there are no other current brewery businesses in the B-5 downtown district.
2. There will be no impacts to traffic flow and safety, including parking and loading as the property is located in very close proximity to the MBTA train station and the Church Street parking lot.
3. There will be no impact to the adequacy of utilities and other public services.
4. There will be no impacts on the natural environment, including drainage.
5. The proposed use fits within the neighborhood character as the business is located within the downtown business district.
6. The potential fiscal impact, including impact on City and tax base and employment is positive.

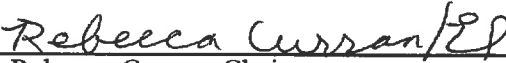
On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Rebecca Curran (Chair), Peter A. Copelas (Vice-Chair), Mike Duffy, Jimmy Tsitsinos, and Tom Watkins) and none (0) opposed, to approve the special permit to allow a microbrewery with a tasting room and outdoor seating area subject to the following **terms, conditions and safeguards**:

Standard:

1. Petitioner shall comply with all city and state statues, ordinances, codes and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finished of the new construction shall be in harmony with the existing structure.
6. A Certificate of Inspection is to be obtained.
7. A Certificate of Occupancy is to be obtained.
8. Petitioner shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
9. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to the Planning Board.

Special Conditions:

1. The outdoor seating area is subject to the approval of the Salem Redevelopment Authority to use the exterior planter space for the outdoor seating area.
2. No live music shall be played outside.
3. No deliveries shall take place on Church Street.
4. The hours of operation for the microbrewery is 6am -12am seven (7) days a week and public hours of operation are proposed to be between 12pm and 12am seven (7) days a week.
5. Trash and grain shall not be stored on the exterior of the building.


Rebecca Curran, Chair
Board of Appeals

A COPY OF THIS DECISION HAS BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK

Appeal from this decision, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A, and shall be filed within 20 days of filing of this decision in the office of the City Clerk. Pursuant to the Massachusetts General Laws Chapter 40A, Section 11, the Variance or Special Permit granted herein shall not take effect until a copy of the decision bearing the certificate of the City Clerk has been filed with the Essex South Registry of Deeds.