

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
SPECIAL MINUTES
June 29, 2020 (VIA ZOOM)**

APPROVED 7/13/2020

1. OPENING OF THE MEETING

The meeting was called to order at approximately 8:15 pm
Via Zoom Webinar, Meeting ID/Link#:
<https://us02web.zoom.us/j/89362860481?pwd=L3NGR2hCY0cvTzJkTm9nd1Ftb3Vzdz09> Meeting ID: 893 6286 0481 Password: 190062

Open Public Meetings Law Statement:

This meeting, which conforms with the Open Public Meetings Law, Chapter 231, Public Laws of 1975, is a **Special Meeting** of the Westwood Zoning Board of Adjustment.

Notices have been filed with our local official newspapers and posted on the municipal bulletin board.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL:

PRESENT: William Martin, Chairman
Eric Oakes, Vice Chairman (8:30)
Matthew Ceplo
Michael Klein
Peter Grefrath
Alyssa Dawson
Michael O'Rourke (Alt #1)
Gary Conkling (Alt #2)

ALSO PRESENT: David Rutherford, Esq., Board Attorney
Steve Lydon, Burgis Associates,
Board Planner
Louis A. Raimondi, Board Engineer

ABSENT: H. Wayne Harper (excused absence)

4. MINUTES: A motion to approve the Minutes of **6/8/2020** was made by Alyssa Dawson, seconded by Michael Klein and

carried unanimously on roll call vote by those eligible to vote.

5. **CORRESPONDENCE:** All referenced during the hearings

6. **VOUCHERS:** None

7. **RESOLUTIONS:**

1. **Withdrawal of Use Variance Application for Hounds Town USA, 55 Bergenline Avenue** - Set for 7/13/2020;

2. **Min Sung, LLC, 583 Broadway - Use Variance and Site Plan** - Board Attorney Rutherford read the Resolution of Approval into the record. A motion for approval was made by Michael Klein and seconded by Alyssa Dawson. There were no further questions, comments or discussions. On roll call vote, Matthew Ceplo, Michael Klein, Peter Grefrath, Alyssa Dawson, and William Martin voted yes.

3. **Sheridan, 15 Bogert Avenue - Bulk Variance** - Board Attorney Rutherford read the Resolution of Approval into the record. Mr. Raimondi noted one correction, and Mr. Rutherford made the change. A motion for approval as amended was made by Peter Grefrath and seconded by Alyssa Dawson. There were no further questions, comments or discussions. On roll call vote, Matthew Ceplo, Michael Klein, Peter Grefrath, Alyssa Dawson, and Gary Conkling voted yes. William Martin was recused.

4. **Nouvelle, LLC, 140 Tillman - Request for Extension of Approvals** - Matthew Capizzi, Esq. represented the applicant and gave an overview, stating the reasons for the extension request. They are awaiting grant monies from the State and the subdivision deed. Subdivisions must be perfected within 180 days of the approval. Mr. Rutherford advised the Board may grant the extension if the applicant is facing delays obtaining other approvals that are necessary. The applicant has been diligent, and it is a very beneficial project. He prepared a Resolution of extension through 2/4/2021, and the extension approval contains all of the provisions and conditions of the original Resolution, which shall remain in full force and effect. Notice was given with publication. A motion for approval to extend the time period for perfection of the subdivision through 2/4/2021 was made by Michael O'Rourke and seconded by Gary Conkling. There were no further questions, comments or discussions. On roll call

vote, Matthew Ceplo, Michael Klein, Peter Grefrath, Alyssa Dawson, Michael O'Rourke, Gary Conkling, and William Martin voted yes.

8. PENDING NEW BUSINESS: None

9. VARIANCES, SUBDIVISIONS AND/OR SITE PLANS, APPEALS, INTERPRETATIONS: NONE

**SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS
The Board Professionals were sworn in**

1. 247 Westwood Avenue Corporation, 247 Westwood Avenue, Block 811, Lot 9 - Use Variance, Site Plan - John J. Lamb, Esq. represented the applicant and noted correspondence from Jeffrey Kantowitz, Esq., Totowa, NJ, attorney for interested parties, regarding cross-examination of witnesses. Mr. Kantowitz came forward, representing interested parties, and asked the Board to leave the meeting open for the interested parties to cross-examine the witnesses presented by the applicant. Mr. Lamb advised he has five witnesses. Chairman Martin stated they will extend all opportunities to interested parties to cross-examine witnesses. Mr. Kantowitz submitted a letter, which the Board Attorney marked Kantowitz-1. Chairman Martin asked all interested parties on the Zoom call to write questions down and at the next hearing they can refresh their memory with the questions they have. There will be no questions by interested parties until the next meeting.

Mr. Lamb put his appearance on the record as attorney for applicant, 247 Westwood Ave. Corp., for the business known as Five Dimes Brewery and requested that Mr. Kantowitz put his clients' names on the record: Mr. Kantowitz responded, ELD, LLC, owning property at 231 Fairview Avenue, and EMFFB, LLC, owner of 223 & 225 Westwood Avenue. Mr. Lamb provided the Notice and publication documents, together with the Affidavit of Service. Mr. Rutherford reviewed them and found them to be in order, and advised the Board to move forward with the hearing.

Mr. Lamb gave an overview of their application for limited brewery use, including seasonal rooftop seating. They had originally filed a minor site plan application on 11/7/19. Before the hearing, applicant decided to participate in the Master Plan review process, and obtain input, since the Board was discussing a recommendation for limited breweries at various meetings last year during the Master Plan Re-

examination review. Since that time the Board discussed limited breweries in more detail. At the last Planning Board meeting on 6/25/2020, they approved the Master Plan Re-examination Report and recommended limited breweries be permitted in the CBD/SPE Zone, with characteristics specified.

Mr. Lamb continued. They have now revised their original plans to substantially reduce the number of seats and eliminate the restaurant component. The total seating has been reduced to 68 seats. There is a reduction of rooftop seats to 14. This results in a reduction in parking requirements. There is an increase in proposed on-site parking spaces to 12. The additional dumpster is removed, and they will utilize the existing dumpster. They modified the rooftop to include a tasting area. A retail area was added to the first floor. Additional changes include the walk-in box is eliminated, a new delivery entrance will be created in the rear, and the cellar hatch is no longer proposed.

They are also here for interpretation as to whether a rooftop use requires major site plan approval. Mr. Lamb further stated they cannot serve food, only snacks. They had eliminated the restaurant component from the application. This would be a positive to the existing restaurants, as they can provide delivery service. Tours are given once a year. Further, they have a rooftop area providing limited seating, which they reduced from the prior application. There are 12 seats on several tables and two at the tasting area, totaling 14 seats. The background information was complete.

Mr. Lamb called his first witness: **Dr. Chris Alepa, President of 247 Westwood Avenue Corporation, 96 Washington Avenue, Westwood**, was sworn in by Board Attorney Rutherford, giving his experience and education. Dr. Alepa testified, giving information on existing limited breweries. This would be the first one North of Hackensack in the State of NJ. They are also planning to open one in Midland Park. The proposed hours of operation are 4:00-11:00 pm Monday - Thursday, Friday 4:00 - 1:00 a.m., Saturday 12:00-11:00 pm. The number of employees present at one time would be three. A retail sales component is a part of it. People buy growlers to go and merchandise such as t-shirts, etc., and gift cards. The area is about 400sf, fronting on Westwood Avenue. Beer is brewed behind glass in view as part of the tour. Dr. Alepa confirmed there is no restaurant component, but they will give out menus from the area restaurants to order for delivery, or they can

bring their own food in. Snacks would be provided. A parking analysis with parking counts was done by Michael Maris Associates, Inc. His report was marked A6 and previously distributed. Dr. Alepa outlined some of the benefits. They are updating the building, which is right across from the post office. They are also looking to feed all the restaurants and retail stores with business, from which they would benefit enormously. People would come from far away to try the brewery, and the train also makes it easy. People that go to breweries are looking for good, home-brewed beers. They are usually very passive, and seek quiet environments. It is their intention to make more than one type of beer. There will be different beers, including holiday beers. Dr. Alepa spoke about the current vacancies on Westwood Avenue. Garbage pickups would be 2-3 times per week. They propose 68 seats, down from 100+, with 14 on the roof top and 56 inside. Rain and snow would keep them inside. Testimony of Dr. Alepa was complete. Questions of Dr. Alepa were held until a future meeting.

Mr. Lamb called his second witness: **Vincent J. Cioffi, Licensed NJ Architect, Westwood, NJ** was sworn in, qualified and accepted. His Resume and CV were marked A3. Mr. Cioffi met Dr. Alepa in December and gave him his views. Since first speaking, he has come to understand how the brewery operates and the environment they wanted to attain. His Architectural Plans were marked C2, revised to 2/10/2020, which he described. The retail section could be accessed through the tasting area and also directly from Westwood Avenue, so it can act independently. They tried for a varied environment gearing towards comfort. The basement area is not very tall, so their idea was to create a brewing platform, with a raised seating area for viewing, making for interesting floor levels with a lot of glass. There will be handicapped accessibility through a lift. To get to the rooftop, there would be lift, stairs and bulkhead. A green component would be included, benefitting them environmentally, acoustically and visually. For seating they are featuring a tasting bar with two seats and three tables of four. Planting areas are scattered on the outskirts. Rooftop sounds would be stopped by the adjacent rooftop wall to the southwest. The greenery will absorb a lot of sound. The taller architectural elements on the roof will dissipate the sound as it travels to the side and direct it upwards. He did not think normal noise would become an issue. It is not in the realm of this pace and what they are trying to accomplish here. Mr. Martin cautioned Mr. Lamb that Mr. Cioffi is not an expert in sound.

Mr. Lamb moved on to elevations with Mr. Cioffi. Sheet A104 showed the exterior elevations. The exhibits are available on a download link provided by Mr. Lamb. They are redoing the entire façade. The current brick will be colored red, blending with the building to the West. The building to the East is the same height as the L&N Grand Building, so it will be lower. They would like to open to outdoor seating on Westwood Avenue. There are arch transom windows, allowing much light to come in. The Colored Elevation Sheet was A-100, dated 11/20/19, the same as the revised plan A-104, except they added a few small windows and a planting area coming down on the brick. They would submit a full colored copy. Mr. Cioffi described SP102, dated 11/20/19 the Existing Site Plan, and SP101, the Site Plan, dated 10/5/19. Mr. Cioffi spoke about the lighting, referring to the Roof Plan. Testimony of Mr. Cioffi was complete. Questions were held until a later time.

Third witness: **Jason Rowley, Professional Brewery Consultant, Red Bank, NJ**, was sworn in, qualified and accepted. He submitted a Resume and CV and was accepted. Mr. Rowley testified that he is a Professional Brewer, and a consultant in the brewing industry. He gave his background and experience and involvement in limited breweries in NJ. Currently he is employed by Jug Handle Brewing in Neptune, as the Head Brewer and Manager. Mr. Rowley described where the odors occur, which is at the beginning of the brewing process and halfway during the process. He described the process of brewing, beginning with barley, separating solids from liquids, boiling it with hops and flavors, then cool down occurs, with most odor prior to fermentation. The process takes 2-3 months but for ales just 2-3 weeks. The mix lasts 6-8 hours. The yeast and malt make an odor in the morning around 10:00 a.m. They take steps to store on site or coordinating with local farmers to remove it as soon as possible. The odor is that of a bakery, only sweeter, and not like beer. Also, the brewery site must be of the utmost cleanliness. Mr. Rowley spoke about the benefits to the community, noting the downtown location has shown to bring massive business to the restaurants. Mr. Rowley's testimony was complete, and questions were held until a future meeting.

Michael Maris, Maris Michael Maris Associates, 156 Ramapo Valley Road, Mahwah, NJ was sworn in as an Expert in Traffic and Parking. Mr. Maris gave his Resume and CV, and was qualified and accepted. Exhibit A6 was Parking Study for Five Dimes Brewery, dated 6/2020, which he reviewed, giving

the number of parking spaces in the various lots per his parking counts. He described the tasks and analyses that were performed during the preparation of the study. Mr. Maris reviewed the parking surveys and existing parking utilization during various business hours. He further described peak hour parking generations. The Institute of Transportation Engineers (ITE) publications are generally used when estimating parking needs have proposed developments.

Mr. Maris continued. The latest architectural plans show the first floor would include seating areas totaling 46 seats, an eight-seat tasting area a game area and the small retail space as stated. The rooftop would be used seasonally and have a seating area with 12 seats, a two-seat, tasting area, for a total of 14 seats, and a game area. The cellar would be used for production and storage. The tasting areas, one on the first floor having eight seats and 450sf, and one on the rooftop having two seats and 200sf, total 10 tasting area seats and 650 sf. There would be an additional 58 seats for use by customers not associated with the tasting areas. The 370sf retail area would generate a need for one parking space. The three employees working would need three spaces and it is anticipated they would use designated employee parking spaces in the municipal lots or on the streets. The brewery would be visited from people already in the area that would walk to the brewery, and also people are expected to arrive by Uber, Lyft or taxi, etc. The retail space would be visited by people already at the brewery. For restaurants, the Westwood Code requires a Parking Rate of one space per three seats, and applying this to the 58 seats, would generate a need for 20 spaces. Therefore, the brewery would require 41 spaces, but it is estimated about 20% will walk or use ride sharing, and actually 33 off-site parking spaces would be needed. Since 12 on-site parking spaces will be provided, Mr. Maris was of the opinion that 21 off-site parking spaces would be utilized by the limited brewery customers and employees. Therefore, he concluded, there will be more than sufficient public spaces available to serve the limited brewery's parking needs. Testimony of Mr. Maris was complete. Questions of Mr. Maris were held until a future meeting.

Peter G. Steck, Licensed Professional Planner, 80 Maplewood Avenue, Maplewood, NJ, was sworn in, previously qualified and accepted. He submitted his Resume and CV. Mr. Steck prepared a report entitled, Planning Evaluation, dated 6/18/2020, marked Exhibit A8. He shared a photo exhibit on the screen. They are separate photos, marked A9, consisting

of four slides, depicting the front and rear of the building, CBD/SPE and CBD Zones, and the site plan. Mr. Steck described the slides/photos. The site has easy access to the parking lot. This would be the only brewery in Bergen County. It is a use that would peak later in the day. It tends to draw people from outside the immediate area. This is a destination use, for which people would travel a distance. The last Re-examination Report in 2019 spoke about the first floor uses and recognizing different types of restaurants evolving, and the tasting room as a permitted use. Last Thursday night at the Planning Board, the Master Plan Re-examination Report was adopted, speaking about roof top activities, and the limited brewery use. The document recognized this new type of use and also that roof top activities are appropriate in the down town. This is a subsection of the CBD, and a new use in the down town. Loading would not interfere with the hours of operation. The burden of proof is relaxed for a new use. Under special reasons, Mr. Steck recited the areas of the MLUL that are advanced and the purposes that would be advanced. The use is particularly suited to the down town. As far as parking, Mr. Maris testified we have 12 in the rear, one handicapped. They are predicted to need 33. They will rely on public spaces. There are sufficient spaces that would accommodate those needs. Because of the off-peak hours, it would be detrimental to have a loading area in those spaces. Mr. Steck recited the negative criteria. It is already there and would be difficult to rent as a retail space. It is not possible to expand the adjacent parking lot, as the area is fully developed. This parking is easily accessed from both streets, and users can find sufficient on-street public parking. This use would be a benefit to the surrounding uses. Mr. Steck recited the special reasons. There would be no detriment to the public good, and it would not substantially impair the intent and purpose of the zoning ordinance. Testimony of Mr. Steck was complete and questions would be addressed at a future meeting.

A discussion on the next hearing date ensued. Mr. Rutherford recommended a Zoom meeting on 8/3/2020. Chairman Martin stated that is the regular meeting in August, 8/3/2020, and it would have to be renoticed. Mr. Kantowitz indicated he would prepare his cross-examination for that time. Mr. Lamb stated they could meeting with Mr. Kantowitz prior to the next meeting to see if they could address their concerns. **The matter was carried to 8/3/2020 with a time extension granted.**

(ZB 6/29/2020 Meeting Minutes)

2. Nouvelle, LLC, 140 Tillman - Request for Extension of Approvals - heard and granted above under Resolutions.

10. DISCUSSION:

1. Submission requirements: Paper vs. Electronic - Tabled per discussion at prior meeting;

11. ADJOURNMENT - On motions, made seconded and carried, the meeting was adjourned at approximately 10:47 pm.

Respectfully submitted,

MARY R. VERDUCCI, Paralegal
Zoning Board Secretary