

**Charlemont Planning Board
June 27, 2019 Meeting Minutes**

Members Present: Bill Harker, Co-Chair, Gisela Walker, Carlene Hayden, Bob Nelson.

Members Absent: Robert Malone

Others Present: Byron Gilchrest, Pam Hazlett, Pattie Aron, Helen Carcio, Phil Banks, Mary Ellen Banks

Call to Order

Planning Board Co-Chair Bill Harker called the meeting to order at 7:00 p.m.

Approval of Minutes

The Board reviewed the minutes from their meeting of 6/6/2019. On a motion by Harker and seconded by Walker, the minutes were unanimously approved as written.

7:00 P.M.: Continuation of Backroads LLC Special Public Hearing to Operate a Micro Scale Distillery at 49 Potters Road

At 7:00 p.m., Co-Chair Harker opened the continuation of the public hearing for Backroads LLC to operate a micro scale distillery at 49 Potters Road. Mr. Harker informed those present that the meeting was being recorded by Gilchrest and Nelson. Walker reviewed the procedure that will be followed at the hearing. Walker stated that we were last here on this topic on May 16, 2019 and we hope to wrap up this public hearing today. Since Planning Board member Robert Malone is not present, it will require a unanimous favorable vote of the board to approve the special permit. We will seek to agree on the facts, the project description and materials submitted and go over conditions, discuss findings of the board to find what the conclusions are and then read the special permit and hear from abutters. We will then vote. The application comes with a list of materials that the applicant needs to submit; the Board can determine whether or not they are relevant to the specific project. These submissions were reviewed to ensure they were complete. The submissions include the property owner's permission to use it for the applied-for purpose, the survey site plan and project description. One of the items requested was the distance from the well. Backroads LLC has a separate plot for the septic system showing the distances from the house. Neither the well nor septic exact distances from the house are all that relevant to this project since there is no plumbing in the building, but these documents are held by the board of health. There will be no signage. There is no additional lighting. The hours of operation are not that relevant. The barrels are always there, and people will be at the location irregularly. The parking plan is not that necessary. As to screening and fencing, there is a partial stone wall between their property and the Gilchrest property, but no additional fencing is planned. There is a floor plan of the garage built in 1999, finished in 2002. Slightly less than half the floor space is for barrel storage. Structures on separate properties are shown on a Google map with approximate distances.

Walker read the project description to ensure it is factually correct. The maximum number of 55-gallon barrels to be stored will be 36. The permit is for eternity, so if they want more barrels, they will need to come back. There will be a ten gallon still that will be used to test and develop new flavors. The 55-gallon barrels will be brought in a few at a time and placed on the rack, empty and the neutral spirits will be pumped into the barrels. The details of rack construction, ventilation, fire suppression and sprinklers will come from a permit from the federal Alcohol and Tobacco Tax and Trade Bureau (TTB). The TTB will regulate the space. Once they receive the planning board approval, Backroads LLC will apply for the permit

from the TTB. Permit approval will take at least six months. One of the conditions will be that once they have applied with the TTB they will give the planning board copies of what they get for the TTB for our records. Within the defined space, it may be only two barrels high. The storage space is ten feet high. The barrels are 28 inches in diameter. There is probably a foot between each barrel. The racking is generally steel but could be wood. Depending upon whether they used a forklift or pallet jack to move barrels will determine the number of barrels that physically would fit in the space. 48 barrels could fit if a pallet jack was used and 60 barrels if a forklift was used. There is plenty of space therefore for 36 barrels. If they are stored two barrels high, they would bottle directly from the barrels in the racking. Harker asked if the rack had a pan to hold any spillage. The answer is that no pan is proposed. Walker asked how many bottles of spirits will be stored. This depends on the size of the bottles. The bottles may be stored in the property, though likely they would not be held long. There could be about 200 bottles 1.75 lt. bottles per barrel. They will be stored in their bottle cases outside of the barrel room in the garage with the still. The bottles may sit for an unknown period until they are sold. There will be a fire wall around the barrel room.

Regarding fire suppression, for spirit fires you would typically use a dry fire suppression system. Water is used for vapor-based fires. There is no specific requirement for fire suppression for a specific number of barrels of spirits. The TTB has recommendations, but it is up to local law. When they receive the permit from the TTB, they will need to get the sign-off from the local authorities and inspection. All the interior buildout of the space is unknown at this time. Hayden asked if we needed to add to the permit after submission of the decision to the Registry of Deeds. Added documents filed with the Registry of Deeds would end up with a different book and page. Walker said it is not specifically part of the decision that will be filed. The documents received later will be added to the Planning Board's file, but not filed with the Registry of Deeds. There is also a 20-day appeal period after the decision is filed.

The still will be outside of the barrel storage room. The maximum size still is ten gallons. The TTB permit requires filing the make and model and serial number of the still. If it changes, one must file for a change with the TTB. The Backroads LLC ten gallon still comes from a company that does not include a serial number. Once the approval is received from the TTB, one applies to the Massachusetts Alcoholic Beverage Control Commission, but their approval is fast. Regarding odor, the odor is low, but there is a smell in the room. There should not be enough aroma to be noticeable by abutters. There will be a fan on the floor to vent and diffuse the vapors from the still since ethanol vapors fall to the floor. One of the conditions will be that there will be no liquid waste going into the septic system. Typically, the ethanol waste is used for cleaning. There will be no solid waste.

The next item to clarify is the conditions. One of the conditions is that Backroads LLC will submit a copy of all of the permits they will receive from the TTB and the state and they will return to the planning board and explain each of these. They will be limited to (36) 55-gallon barrels of liquid. There will be no signs or additional lighting, beyond what is typical of a garage. Walker said we do not limit permits to a number of years, so changes would require a new special permit. Any amendments would require they inform the TTB. We could require that any such TTB changes also require a new special permit. Walker asked what happens should the LLC go bankrupt. The town will not have any liability; they have an insurance bond to cover all the taxes required to the state and federal government. Backroads LLC also will have business insurance for the property. They will supply the planning board with a copy of the filing with the state for the LLC. Water tanks will not be required, the planning board will defer to the TTB on fire suppression. Walker asked Mr. Gilcrest if there was anything he would ask for that would make the business more acceptable to him. Mr. Gilcrest stated that no, he does not want this use on that property at all and intends to appeal it. Walker then walked through the Special Permit Criteria.

- a) **The degree to which the activity, site plan and building design are consistent with economic development activities, including tourism, as identified in the Master Plan.** The town offers snow plowing, fire, police and road maintenance. There should not be any additional services needed. It would have minimal impact on tourism.
- b) **Capability of and cost to the Town to provide municipal services for the proposed use and premises, including police, fire, emergency services, and road maintenance and the ability of existing infrastructure to support the proposed use including, but not limited to existing roads and bridges and their condition.** No increased traffic. Fire suppression system and automated ventilation system will be installed if the TTB permit requires it.
- c) **Impact on the Town's school or other educational facilities.** No impact.
- d) **Consequences of sound, light, odor, noise, traffic congestion, or other disturbances for abutting and other properties that may be impacted.** No sound, light and very little odor will result from these activities. No traffic congestion will result.
- e) **Environmental impact of the proposal, including the degree to which the proposal results in water, air, noise or light pollution; topographical change; removal of mature trees or other botanical assets; removal of cover vegetation; risk of erosion or siltation, increased storm water runoff from the site; or displacement of natural habitats.** No Impact.
- f) **Impact on existing traffic conditions and vehicular and pedestrian safety on all roads in town, particularly at intersections with the Mohawk Trail.** Do not see any impact.
- g) **Degree to which the proposal is compatible with the character of the surrounding area and neighborhood.** The Rural Residential district is not only for residences, but for a more dispersed and smaller scale opportunity for all kinds of commercial activities within the town. The entire town used to be a rural residential district, but the village was changed to encourage the creation of businesses. It is a small dead-end road and mostly residential, but there are other businesses on Potters Road, including an excavation business where large trucks come up the road and dump gravel and material for the business.
- h) **Degree to which the proposal preserves scenic views and historic, natural, and cultural resources through site design, landscaping and protection of resources.** No changes of these characteristics will result.
- i) **Employment, housing and fiscal consequences to the Town.** Some local carpenters may be employed for the buildout of the interior of the garage. There will be no housing impact. There would be business personal property taxes on the barrels and still, but there is no local tax on the alcohol.
- j) **Impact on agricultural or forestry operations or the productivity of the land for those uses.** There are presently no ingredients grown locally in town, although the applicants hope to in the future.
- k) **Capability of the Town or other public or private entities to provide water supplies, sewer treatment, and stormwater management.** Not applicable-all are private.
- l) **Other impacts on the Town including support of local products and businesses, protection of open space, provision or recreational opportunities for Town residents, and energy conservation.** None, except for the presence of solar panels for electricity.

Since Co-Chair Malone is not present at the meeting, a unanimous vote of all members present is required for approval.

Mr. Gilchrest asked if we were voting on the original application that says, for example, that the property is being changed from residential to commercial. Walker said that we have made many changes since the original application. The application is not the final say, it may be modified as needed. What we have all

agreed upon today will be voted on and then the permit will be written. The full Decision will then be filed with the town clerk and available for review. An abbreviated decision will be mailed out to abutters and applicants, stating that the full decision can be viewed with the Town Clerk. There will be 20 days to appeal the decision. Mr. Gilcrest asked who will operate the still. Pattie Aron said that it will only be operated by one of the three applicants and is always attended when operated.

Motion:

Hayden made a motion to approve a special permit to Backroads LLC for a micro scale craft distillery and barrel warehouse at 49 Potters Road, Charlemont subject to the following project description, conditions and limitations:

Project Description:

The project description has two components, first the storage of up to 36 barrels of whiskey in a secured storage section of the building previously used as a garage and second a small ten gallon still to be used for testing and development of new flavors. There will be bottle storage on site for short periods. The 55-gallon barrels will be brought up two to four barrels at a time by pickup truck and will be pumped on site from truck tank once the barrels are racked. There is room for barrels according to the site plan to be moved by palette jack and there may be storage of approximately 200 bottles of alcohol on site at any time. The specifics of the security, the racks, ventilation, and fire suppression will be coming from the TTB permit, which Backroads LLC will present to the planning board once they have it. The still will be located in the same building outside of the barrel storage unit. The ten gallon still will produce about one gallon of purified spirits. Very low odor is anticipated, except within the room. The Board of Health provided DEP regulations that no liquid waste is to be released into the septic tank.

Conditions:

1. The applicants shall come before the Board after they have received all applicable Federal, State and local permits.
2. No more than (36) 55-gallon barrels to be stored at any given time.
3. Any change or expansion shall require the filing of a new Special Permit.
4. The Town's Fire and Police Departments shall be provided details about the conditions spelled out in the TTB permits. Given the substantial value and attractiveness of the product stored, the local fire and police shall approve of access security measures and fire suppression measures.
5. There shall be no signs or lighting beyond what is typical of a garage.
6. No waste shall be discharged into the septic system.
7. Any changes in the three applicants/operators needs to be reported and their credentials submitted. The names of whoever operates the still or performs the bottling of the whiskey shall be submitted to the Planning Board.

This project will run with the applicants and not the land.

The motion was seconded by Nelson and approved by unanimous vote of the four board members present.

The public hearing was closed at 8:25 p.m. There will be no more information taken and no more evidence given.

Board Discussion

Walker Hayden and Nelson agreed to meet on Tuesday, July 2, 2019 at 6:00 pm to write up the decision for the Backroads LLC Special Permit. If necessary, they will also meet Wednesday, July 3rd if needed.

8:30 P.M.: Phil Banks to discuss noise and ongoing disturbing activity on Tea Street Hyytinen Hollow Tubes

The Banks' have experienced very loud music with foul language and trespassers on the river in an area that has been family friendly in the past. The police responded regarding these issues on June 23rd. A police report was copied for those at the meeting. Hayden sent an email to the Cannabis Control Commission this week, though in the past they have informed us to go to the police, since they do not have resources for enforcement. Walker suggests a meeting be convened of all interested town boards and abutters including the Select Board, Planning Board, Board of Health, Police, Fire, Building Inspector, abutters. The Charlemont Chief of Police has also written to the district attorney regarding this topic.

There is safari tent camping there and no bath facilities. There is signage on the river for hot dogs, which is shown in a picture. It was noted that one person stole a Zoar raft, which was later retrieved. The Charlemont river patrol has been very helpful. Walker will inform Jim Hawkins of our plan.

Walker made a motion that we ask the Select Board and other relevant parties to come to a meeting to discuss this. Hayden seconded the motion. All other board members approve. Hayden will craft an email to request this meeting. We will try to have this meeting on our July 18th meeting at 6:00 pm.

Board Discussion

The Board received a letter from Norman Pfeifer regarding the proposed microwave tower on Legate Hill Road, who previously lived on Legate Hill Road, dated June 19, 2019. He states that the town will be inundated by tower applications if the tower is approved on Legate Hill Road. Charlemont would be described as a tower friendly town bring many applicants who cannot be refused in the future. Norman Pfeifer and other residents on Legate Hill Road believe that the Planning Board has jurisdiction over this, but Town Counsel ruled that it is exempt from zoning, because it is in the town's right of way. Pfeifer and others disagree with this opinion. If it required zoning, it would need to be 800 feet from the nearest home, but as it stands, it would be only 150 feet from the nearest home, according to the residents on Legate Hill Road.

Walker verified that the Sun and Soil application submittals are complete. That hearing is scheduled for July 11th, 2019 at 7:30 p.m.

Motion:

Hayden made a motion that Robert Malone and Bill Harker remain Co-Chairs of the Planning Board for the next 12 months. The motion was seconded by Harker and unanimously approved by those in attendance.

Adjournment

At 9:23 p.m., on a motion by Harker and seconded by Hayden, the board voted to adjourn the meeting.

Respectfully submitted,
Bob Nelson

Documents viewed in the Planning Board meeting of 6/27/2019*

1. Public Hearing Notice and Agenda for meeting of 6/27/2019
2. Backroads LLC Special Permit Application file to Operate a Distilling and Barrelhouse at 49 Potters Road, Charlemont, MA 01339
3. Backroads LLC Draft Planning Board Notice of Decision on Special Permit to Operate a Distilling and Barrelhouse at 49 Potters Road, Charlemont, MA 01339
4. Backroads LLC Letter of Permissions to use property
5. Backroads LLC Newspaper Publication
6. Backroads LLC Site Plan Documents
7. Backroads LLC Applicant Bios
8. Backroads LLC Still Fact Sheet
9. Backroads LLC Special Permit Criteria
10. Draft Meeting Minutes from June 6, 2019
11. Charlemont Police Department Incident Report #19-22-OF Call # 19-46509 from 6/23/19
12. Two Pictures of Hot Dog Signs on Deerfield River
13. 2019 Special Town Meeting Zoning Bylaw Revision Timeline
14. Letter from Norman Pfeifer regarding a Proposed Microwave Tower on Legate Hill Road, 6/19/19

*Documents are stored in their respective files