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MAYOR

CITY OF SALEM, MASSACHUSETTS

BOARD OF APPEALS

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April 30, 2024

Decision

City of Salem Board of Appeals

The petition of MAITLAND MOUNTAIN FARMS, LLC at 84-86 DERBY STREET (Map 41, Lot 064) (B1 Zoning District) for a Special Permit per Section *3.1.2.D Principal Uses-Industrial Uses* of the Salem Zoning Ordinance to open a distillery with a tasting room.

A public hearing on the above petition was opened on April 17th, 2024, and was closed on April 17, 2024.

On April 17th, 2024, the following members of the Salem Board of Appeals were present: Nina Vyedin (Chair), Carly McClain, Paul Viccica, Hannah Osthoff, Ellen Simpson, and Stephen Larrick.

Statements of Fact:

The petition is date stamped March 19, 2024. The Petitioner seeks the Board of Appeals approval to open a distillery with a tasting room.

1. 84-86 Derby Street is owned by Ryan Macione.
2. The Petitioner was Maitland Mountain Farm, LLC.
3. 84-86 Derby Street is located in the B1 Zoning District (Map 41, Lot 064).
4. On April 17th, 2024, Holly Maitland presented the requested relief to the board.
5. Ms. Maitland was accompanied by her husband, Andy Varela, and business colleague, Dan Spacek.
6. Ms. Maitland stated she was a cofounder of Maitland Mountain Farm since its inception in 2009. Maitland Mountain Farms started selling produce and cut flowers at the Salem Farmers Market.
7. The Applicant stated they would like to expand their business by opening a distillery with a tasting room. She stated this venture will diversify their farm offerings and create new job opportunities.
8. The Applicant stated the distillery will be an opportunity for locals and visitors to learn about the process of distillation and deepen their appreciation for sustainable agriculture.
9. Mr. Varela stated he was representing himself and was not in attendance in his capacity as city councilor.

10. Mr. Varela stated that 84-86 Derby Street was an appropriate location for the proposed agricultural use. Mr. Varela stated there were several other businesses that were operating under this same special permit in Salem.
11. Mr. Varela stated Massachusetts General Law- Section 138, sole purpose is to encourage the development of domestic farms in the Commonwealth of Massachusetts.
12. Mr. Varela stated Maitland Mountain Farms is Salem's only revenue producing agricultural entity in the city. Mr. Varela intends to transform their produce into high quality artisan spirits that reflect the farm's offerings to the community.
13. Mr. Varela stated his team held a community meeting to address any concerns for the neighborhood. He referred to the submitted documents that their petition had received three hundred and forty-six (346) signatures in favor of their proposal. Ninety-four (94) of those from the immediate Derby Street area.
14. Dan Spacek, associate, reviewed the schematic plan drawn by the Applicant. The reviewed plan was not part of the submitted materials to the Board of Appeals.
15. The presented plan stated the total space for the distillery is nine hundred fifty (950) square feet. The applicant stated there will be two hundred seventy-six (276) square feet for the tasting room.
16. Mr. Varela stated there will be a fifty (50) gallon still at the site.
17. Chair Vyedin inquired how raw materials will be brought in and what delivery schedules would be for the proposed use.
18. Mr. Varela stated they will be bringing their materials from the farm to the location of the distillery. He stated they will bring the materials in through the front door. At the back of the facility, they will prepare the materials for fermentation and distillation.
19. Mr. Varela stated the tasting room hours will be from 12:00pm to 10:00pm, Tuesday through Sunday. Mr. Varela further stated there will be no parking provided for the site. It will be served by on street parking only.
20. Mr. Varela stated they will be taking the waste off-site back to Maitland Mountain Farms to be used for compost and animal feed at their farm location.
21. Chair Vyedin asked about a delivery schedule and waste pick up schedule.
22. Mr. Varela stated they will have a truck in the morning to bring materials in and a truck in the evening to bring materials out. He stated there will be no full-size delivery trucks or box trucks. He will be bringing the materials in and out using a pickup truck.
23. Ms. McClain inquired how many jobs Mr. Varela expects to create with this proposal.
24. Mr. Varela responded there will be one (1) full-time employee for distillation and general job duties between the farm and the distillery. For the tasting room, there will be one full-time employee manager and up to four (4) or five (5) part-time employees.
25. Ms. Simpson asked if there will be food or if customers will be able to bring food into the distillery. Mr. Varela stated their goal is to extend the offerings of Maitland

Mountain Farm to the customers of the proposed distillery. In addition, a light style of fare such as sandwiches to salads. Mr. Varela stated that members of the Maitland Mountain Farm CSA (Community Supported Agriculture) will be coming in to grab their shares of produce. These shares will also be available to members of the neighborhood.

26. Mr. Varela reiterated the primary use of the space will be a distillery and tasting room. The accessory use will be agricultural in nature.
27. Chair Vyedin inquired what they will be distilling at the site.
28. Mr. Varela responded that the plan is to be vodka and gin. Also, to eventually bring in agave nectar for tequila and to begin aging spirits such as whiskey and rum.
29. Mr. Larrick inquired what the intended capacity of the proposed distillery and tasting room is. Mr. Varela responded the capacity will be up to twenty-five (25) guests.
30. Mr. Varela stated there will be one restroom at the site which will be ADA accessible. He stated they wish to create an additional restroom at the site.
31. The meeting was opened to public comment.
32. Heidi Kepnes, 4 Bentley Street, was in support of the proposal.
33. Lucia DelNegro, 22 English Street, was in support of the proposal.
34. Jeff Cohen, 5 Hancock Street, Ward 5 Councilor, was in support of the proposal.
35. Patrick Schultz, 40 Summer Street, stated he was in favor of the project.
36. Charles Hildebrand, 46 English Street, stated he was strongly in favor of the project.
37. Chair Vyedin reiterated the board had received multiple letters of support for the proposal that are in the file.
38. Mr. Varela reviewed the statement of grounds for the petition.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearings, and after thorough review of the petition, including the application narrative and plans, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

Special Permit Findings:

The board finds that the adverse effects of the proposed use will not outweigh its beneficial impacts to the city or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this ordinance, the determination includes consideration of each of the following:

1. Social, economic, or community needs are served by this proposal: the proposal will provide community members with access to fresh and healthy foods. This proposal will increase the economic resiliency of the community.

2. Traffic flow and safety, including parking and loading: traffic flow and safety will remain unchanged for the site.
3. Adequate utilities and other public services already service the structure: the proposal will use the existing utilities and will not have a negative impact on public services.
4. Impacts on the natural environment, including drainage: there will be no impact on the natural environment with this proposal.
5. Neighborhood character: the project will complement the neighborhood character as other supported businesses have done.
6. Potential fiscal impact, including impact on city tax base and employment: there will be an increase in tax revenue for the city. The proposal will create up to ten (10) jobs for local residents.

On the basis of the above statements of fact and findings, **the Salem Board of Appeals voted five (5) in favor (Nina Vyedin (Chair), Carly McClain, Ellen Simpson, Paul Viccica and Hannah Osthoff)) and none (0) opposed** to grant MAITLAND MOUNTAIN FARMS, LLC a Special Permit per Section *3.1.2.D Principal Uses-Industrial Uses* of the Salem Zoning Ordinance to open a distillery with a tasting room, subject to the following terms, conditions and safeguards:

Standard Conditions:

1. Petitioner shall comply with all city and state statutes, 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 finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. A Certificate of Inspection is to be obtained.
8. Petitioner is to obtain approval from any city board or commission having jurisdiction including, but not limited to, the Planning Board.
9. Unless this decision expressly provides otherwise, any zoning relief granted does not empower or authorize the Petitioner to demolish or reconstruct the structure(s) located on the subject property to an extent of more than fifty percent (50%) of its floor area or more than fifty percent (50%) of its replacement cost at the time

of destruction. If the structure is demolished by any means to an extent of more than fifty percent (50%) of its replacement cost or more than fifty percent (50%) of its floor area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the ordinance.

10. All construction shall be done per the plans and dimensions submitted to and approved by this board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.
11. Petitioner shall schedule Assessing Department inspections of the property, at least annually, prior to project completion and a final inspection upon project completion.

Nina Vyedin, 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.