

A meeting of the Town of Moreau Planning Board was held on November 18, 2019 at 7:00 p.m. in the Town of Moreau Office Building, 351 Reynolds Road, Moreau, New York.

Ron Zimmerman	Planning Board Chair
Jerry Bouchard	Planning Board Member
Jerry Bouchard	Planning Board Member
John Arnold	Planning Board Member
Reed Antis	Planning Board Member
Erik Bergman	Planning Board Member
Mike Shaver	Planning Board Member
Peter Jensen	Planning Board Member

Also present: Jim Martin, Zoning Administrator; Karla Buettner, Atty. for the Town; Tricia Andrews, Recording Secretary

The meeting was called to order at 7:02 pm by Ron Zimmerman, Chair. The Board reviewed the minutes of the October 21, 2019 meeting. No corrections were made. Motion to approve the minutes was made by Mr. Antis and seconded by Mr. Arnold. Motion carries, all in favor with no roll call but two members abstaining.

Anthony Havens
Harrison Ave.
Sketch Plan

Mr. Havens explained that he and his brother own a 15.5 acre parcel currently attached to his own residence, from which he would like to separate and sell two acres to his sons.

Mr. Martin explained that this is a three-lot subdivision, two new lots and the parent lot, and will be served by a private drive, so the Board will want to look at a maintenance and access agreement. The lots comply with minimum area and other requirements. Access to the remainder of the property is well preserved by the plan that has been proposed.

Andrews Havens, the other owner, stated that there are three homes now all served by the private drive and already sharing maintenance.

Mr. Antis asked about the space between the lots. The Havens' parents owned the whole thing and their father preserved some space around his house when he gave land to the brothers. That space was added on to Anthony and Andrew's lots when their father passed away. So he will have property around the houses that are added. He has access to the back if he wants to go ride a four-wheeler, etc. He has about 30 ft behind him that belongs to the main parcel.

Mr. Antis expressed concern that 50 years in the future that piece of land between the two could become problematic.

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Mr. Martin said he thought the deed would be clear enough. Mr. Havens said they also go out there for firewood, etc. Mr. Martin pointed out that it could easily be done away with in the future if it was no longer suitable.

Mr. Shaver thought it was a good idea, and he has been there and thinks it will work nicely if they had to fight a brush fire back there, etc. Mr. Antis asked and Mr. Havens said the driveway is 25-40 ft wide at different points. Mr. Andrew Havens said he had widened parts of it because he has large trucks. The shared driveway is staked out at 50 ft, and the actual drive is about 25. Mr. Antis explained that there are requirements for the driveways that will be written in.

Anthony Havens stated that he had already talked to his lawyer about the deed language.

Andrew Havens stated that two vehicles can pass.

Mr. Arnold asked and Appeal No. 806 that is noted on the plan is an approval from the Zoning Board for a reduction in required road frontage.

Chairman Zimmerman asked whether there were any stipulations or limitations on the Appeal and Mr. Martin said that he will look for that before the next meeting.

Andrew Havens explained that right of way is already in all of the deeds, including the house on the road.

Chairman Zimmerman asked why the driveway appears to cross into Lot 4 & 5 and Anthony Havens said that they have been taking the easiest path until now but when the new homes are built they will remove a tree and straighten the driveway.

Mr. Arnold explained that there are requirements for driveways longer than 300 ft to be accessible to emergency vehicles and maintain passing zones. Anthony Havens explained that they have always owned large equipment and kept the driveway very clean. Chairman Zimmerman explained that the requirements must be listed on the plan.

Mr. Arnold asked and these lot sizes are acceptable in the UR. They have septic systems and public water. Anthony Havens said he would like to look into a fire hydrant there and Mr. Shaver recommended that they speak to Jesse Fish at the Water Dept.

Mr. Arnold asked and the Appeal that applies was granted in August of 2018 for this project, but because of life circumstances they haven't acted on it until now.

Mr. Bouchard asked and the property is flat, about 1% grade.

Mr. Antis asked about the road, and whether runoff would be a concern.

Mr. Martin said that this is far below the area of disturbance that would require a SWPPP. Andrew Havens stated that the State has flagged wetlands further back on the property.

Atty. Buettner supplied the approval from Appeal No. 806, it calls for a maintenance agreement on the deeds and recorded on the plat, and that is all.

When the first two lots were subdivided, no Variances were required. This was 25 years ago.

The plan will require a cross section detail of the road, turnarounds, driveway requirements, and a notation about water main location.

Chairman Zimmerman asked whether the Board wanted topo maps.

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Mr. Bouchard asked what the front setback on the lots is, north or east. Mr. Martin said that they would use the architectural front door.

Mr. Bouchard stated that the setback lines should be on the plan. Andrew Havens said that his and Anthony's houses are about 60 ft back.

Mr. Martin stated that addresses on this would be tricky. Right now they are A, B, etc. Those would have to go on the plat, for emergency services. It would be worked out with the postmaster and the assessor. The surveyor should be able to pick up the placement of the water main.

Mr. Antis pointed out that any wetlands on Lot 6, the remaining parcel, should be shown. The owner on either side should be noted on the plans as well.

Mr. Martin stated that there are 6 items in addition to the ZBA requirement; Details of the private drive (width, cross section, turn around), location of the water main, lot setbacks shown, wetlands flags, referral to Fire/EMS, property owner to south, addresses.

Chairman Zimmerman asked how much time the applicant needed and Mr. Havens said he would be in touch with Mr. Martin shortly. Would he like a public hearing in December? Mr. Havens felt he would not be ready December 2nd, but he would by the first of the year. He would have until January 13th.

Motion was made by Mr. Arnold seconded by Mr. Shaver to set a public hearing for Anthony Havens for the January Planning Board meeting (date TBA). All in favor, motion carried with no roll call.

**Gardner Congdon
Hatchery Rd
North Branch Brook Subdivision
Preliminary Review**

Matthew Webster of Van Dusen & Steves Land Surveyors appeared representing Mr. Congdon. They have put together a SWPPP, which has been approved already. They have adjusted property lines to go with the natural flow of the land, and located the DEC wetland flags to show the location of buildable area beyond the 100 ft buffer.

Chairman Zimmerman asked and Mr. Martin stated that he didn't think there was anything outstanding. They will have the same issues as the previous applicant with regard to addresses.

This is not a full SWPPP, it is an erosion and sedimentation control plan and was found to be in compliance.

This is a 4-lot subdivision.

Chairman Zimmerman opened the public hearing and asked if anyone had concerns or comments in favor. There was no public comment.

Mr. Martin confirmed that the public hearing signs were placed as required, and replaced after they were stolen. Mr. Arnold thanked the engineers for their diligence in connecting to public roads.

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The shared driveway verbiage is on the upper corner of the plat. Atty. Buettner provided it, so she is sure it is acceptable. Detail on the driveway showing the turnaround is there.

Public hearing was closed.

The Board reviewed the EAF. Motion to make a negative declaration regarding SEQR for North Branch Brook Subdivision was made by Mr. Arnold and seconded by Mr. Antis. Roll call vote resulted as follows: Mr. Bouchard, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Shaver, Yes; Mr. Jensen, Yes; Chairman Zimmerman, Yes.

Request was made to waive the separation between preliminary and final hearings. Mr. Arnold made a motion to waive the requirement since the project has been uncontroversial and meets all the requirements. Mr. Antis seconded. Roll call vote resulted as follows: Mr. Bouchard, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Shaver, Yes; Mr. Jensen, Yes; Chairman Zimmerman, Yes.

Motion to grant preliminary and final approval with the condition that mailing addresses and a signature box be added the final plans was made by Mr. Bergman and seconded by Mr. Shaver.

Roll call vote resulted as follows: Mr. Bouchard, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Shaver, Yes; Mr. Jensen, Yes; Chairman Zimmerman, Yes.

Mr. Bergman motioned that the chair and one other member sign the final mylars when they are presented and Mr. Bouchard seconded. Motion carried unanimously with no roll call.

Rachel McDermott and James Czub
Z-farm Brewery
190 Old West Road
Site Plan Review

Atty. Teresa Bakner, with the law firm of Whiteman, Osterman and Hanna, along with Dominick Arico, an engineer with C.T. Male & Associates spoke on behalf of this application.

Dept. of Ag & Markets has provided a letter. The Dept has found that streamlined Site Plan review is not unreasonably restrictive. Refer to glossary about what it is to be streamlined. It mentioned the guidance to a potential PUD.

The Dept. does not require the applicant to get a Special Use Permit, Use Variance or PUD for a protected activity. They also found that it is unreasonably restrictive to prohibit retail sales in the M-2.

Similarly, they have a letter from the Farm Bureau in support of farm breweries. Common Roots also submitted a letter in support, stating that farm breweries in conjunction with craft breweries bring benefits to one another and from being in close proximity.

Rachel Czub put together a change.org petition in support of her project, and it has 7,000 signatures.

The Short EAF has been provided, but they do believe that it is a Type II action. They looked into the indication that there are Historic properties in the area, and have a letter that states there are no historic or archaeological resources impacted by the project.

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They have also submitted letters from CT Male dated Nov. 4 and Nov. 12 addressing the use of groundwater. Mr. Arico will address those.

If the Board intends to require a public hearing, the applicant would like it to be at the next meeting.

Mr. Martin stated that the PUD request was when the project had other uses proposed that are not covered by the 350-A, and no one asked for a PUD for the project as it is currently configured. That was a suggestion made in order to be helpful, but that no longer applies.

Mr. Arnold wanted to state on the record that he is a member of the Farm Bureau, and he did not participate in the discussion there regarding this issue or the letter that was issued.

Mr. Martin stated that there were letters received, and one FOIL request which was answered, but it came before the letter from Ag & Markets that came today. He would like to hear from the applicant on the letter from Nov. 4 in more detail.

Chairman Zimmerman asked Atty. Buettner to respond to the letter from today. She stated that the letter indicated that retail sales is considered part of a farm operation, and their decision pre-empts Town Code in most cases. So Jim's original determination that it's not allowed but could be pre-empted is correct, and they did choose to pre-empt it, so the retail sales as a taproom has to be allowed.

Mr. Arico (CT Male) went through the letter from Nov. 4th.

The Board had said that soil type for drains should be discussed. It is Type A, sandy well drained soil. Perc tests were done, 1-5 minute perc soils are more than adequate for on-site wastewater disposal and drainage.

Retaining wall/slope on access drive- it has been designed not to exceed 10% grading. This is more than acceptable for standard motor vehicles including deliveries and fire equipment. They have determined that there is no need for retaining walls, but a split rail fence is proposed as guidance. Side slope is 1:3 or 1:4.

Regarding electrical utilities and well. Power is adequate. Well location is shown. Nov 5th well test results presented- had enough flow for the brewery but not for the cleaning process, which uses 3,000 gallons over the process. The flow is 2 gal/minute. It ran at 8 gal for 30 minutes. They plan to use a storage tank that fills at night to store water for the cleaning process. The well is 281 feet deep, water is at 70 feet, sits below shale. There should be no issues with the water supply for the taproom and brewery.

Septic sizing is in consideration of the detail. Septic for the existing dwelling is not shown. Absorption fields for the brewery employees and patrons is 960gal/day leach field is designed for that. This is for brewery only and not the home.

Signage locations are shown. Signs will be in accordance with the Town requirements, monument signs planted with annuals. Elevations were submitted.

No electrical poles are planned, but there are box lights on the buildings and the photometrics were provided for the poles.

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Floor plan and points of entry with all access points shown was provided.

Landscape plan has been provided, seasonal planting and native plants planned.

Full detailed erosion control plan was provided. They will stabilize with grass during the build. There is a low spot where runoff will go, keeping it on-site, but there is very little runoff because the soil is well drained. They are putting stone over existing driveway areas, not changing layout.

Traffic, there are no basic trip generations existing with ITE. The closest thing Mr. Arico could find in their book was a winery with the same number of seats, which has a peak on Saturday of 54 cars entering and exiting. Peak hours are 1-2 pm. Information he could find for a brewery was about ten cars less, but it wasn't documented. He expects most traffic will go west.

Parking is shown. Currently no expansion or addition needed, amount available is more than adequate.

On Nov. 12, they expanded upon the water well tests. It will take 25 hours to refill the storage tank, actual use indicated about 16 hours to refill it.

Chairman Zimmerman asked Mr. Arico to speak to the update on the project narrative. Atty. Bakner spoke to the fact that the Farm to Table restaurant was removed, hours of operation were added, sight distances added, 360 ft. They located no other well within 500 ft.

The next neighbor is another 300 ft, total of 800ft away.

Chairman Zimmerman asked and a fire suppression system would require more water.

Mr. Dreimiller would have to speak to that.

2,000 gal for an hour are required for sprinkler systems. They would use the same storage tank for that.

Mr. Shaver asked whether Town Code would apply for that and Mr. Martin thought that State building codes would speak to it and the local Fire Co. might have an opinion as well.

Mr. Jensen asked whether the discussion of the well was the existing well and it is. Might it be affected by farm waste?

There is no farming. There is a horse paddock. Dept. of Health would come in and sample the water regularly. Mr. Arico didn't know whether there would be treatment of the water. The water has been tested and passed.

Jim Czub 180 Old West Road stated that the well is just outside the former paddock. Atty. Bakner stated that DOH regulates water and they are well within requirements. This is a bedrock well and they are confident that they will meet requirements.

Mr. Martin was asked for comments. He stated that the neighbors are worried about the status of the aquifer and overall drawdown. Atty. Bakner stated there is a great distance between them and the next well, and there is no reasonable concern that this will affect the area. They are evening things out by having the storage tank. There is no study they can do on a bedrock aquifer, that will show anything more. They have done what the Dept. of Health requires, and another study is very expensive.

Mr. Arnold stated that their well is probably above all the rest, if they run out of water, that is their problem. He does know people whose water goes gray if they leave it on long enough.

Mr. Shaver thought that the Town engineers should review the pump data. Mr. Martin agreed.

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Mr. Martin stated that trip generation is one aspect of traffic. There is also a concern for health and safety that is not a volume issue.

Atty. Bakner asked if this was a concern about drunk driving, and stated that there are already State laws about that and it is beyond the control of this Board. In addition, craft brewery/taproom patrons are not drinking to get drunk.

Chairman Zimmerman raised the question of whether using the winery was an accurate comparison.

Atty. Bakner stated that there is no other source for data besides ITE.

Ms. McDermott stated that even if they could observe another brewery, it wouldn't be the same concept.

Mr. Arnold asked if it had bars, and it does have drinking establishments but Mr. Arico felt that those descriptions didn't approximate. Mr. Arnold asked if they were using winery with tasting room, or taproom because even those are not the same thing. This project looks more like a taproom to him as described. It is retail sale for onsite consumption. Does ITE have something like that?

Mr. Antis offered that serving sizes might establish whether it is a taproom or a tasting room.

Atty. Bakner was at a farm brewery over the weekend that does both. They also have not established how big a piece of equipment they are buying.

Atty. Bakner argued that they will brew once a week, but that will not establish the traffic.

Ms. McDermott argued that the size of the system is not relevant because she can brew as often as she wants, and it is all farm product.

Mr. Antis argued that the water use and sales volume will be established by her production.

Chairman Zimmerman stated that the Board would have to choose whether they want to accept the traffic data presented or would like to ask for independent review.

Mr. Antis continued to argue that the amount of beer brewed would determine the trips generated, and Chairman Zimmerman stated that the Board could not do that math. Mr. Martin pointed out that the size of the room would also determine how many people were there, and that the public is more concerned about accident rates, etc than just traffic levels. This is not the first farm brewery and discussion with other similar establishments would be helpful.

Mr. Arnold asked and Mr. Arico is convinced that the numbers he provided are the closest thing to what is going on here with modifications for size.

Mr. Bouchard asked if the peak hour came from ITE and it did. Mr. Bouchard asked if all the grain production etc would be on this site and Ms. McDermott said that all happens in the fields. The brewing waste will be trucked off-site.

Mr. Shaver asked what kind of trucking they would be doing and Ms. McDermott said that they currently haul in two stainless tanker trucks, 5600 gallons they currently haul soybean oil in one. Farmers will come in and pick up spent grains for their farms. The wastewater from cleaning will also be hauled away.

Mr. Arnold stated that he was aware of Ag District protections, but he is not sure where the Board have seen that they approve of on-site sales and consumption vs tasting and sales. Atty. directed him to the farm brewing license.

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Chairman Zimmerman opened the floor for comments from the public, noting that this is not a public hearing.

Joyce Hall of 70 Thomas Road asked where will the solid waste go? It is trucked off-site. Where? to a wastewater treatment plant. She was wondering if they would use a local place. Ms. McDermott didn't answer. Mrs. Hall expressed concerns for traffic and influenced drivers, if no food would be served. The law requires that some food be available with brew. Ms. Hall hadn't heard any discussion about neighbors' quality of life and agricultural pursuits, such as noise, waste consumption of water, lights. Ms. McDermott stated that they had talked about lights and water. Atty. Bakner stated that this is not more lighting than an agricultural use. They have already talked about water and DOH regulations.

Stephanie Oakley of 25 Old West Road spoke about concerns about her son's bus stop being impacted by drunk drivers especially since she has already had drunk driving accidents in her yard in the past year. It will get worse if there is a brewery right down the road.

Chairman Zimmerman pointed out that they will operate after 3pm. Her son is dropped off at 3:40pm and she stands in the street to stop cars.

Marge Durka of 13 McQuarry Way asked about the leach field on the left side and are cars being parked on the septic tank. What's going into it and where is it draining? That is for domestic waste, and under the farm land. She had to have 5 gallons a minute, so how are they brewing on 2 gallons? She feels that 305A is only valid when there is no danger to the public and there is danger in this.

Harvey Stein of 210 Washburn Road questions erosion. Have all the Board members driven by at night? He doesn't think it is a good place for a driveway as it rises up, and Old West drops off so you can't see cars coming up. The Board members should drive there after having two beers and see if it is safe.

Atty. Bakner stated that they have established that they meet requirements and have sight lines.

Shawn Sharon of 40 Skylark and /or Clark Road. He patronizes these types of establishments and you are more likely to get overserved at a bar than one of these places. There are party busses, this will be good for the Town because it brings business in. People will come to Moreau and spend money instead of going to Saratoga or Lake George.

Dan Hoffler of 77 Old West Road. A bar/pub/tavern should be on the main street of a Town, not in a country location on a dark street. He bought a house in the country, and this is not what they wanted. Because it is a secluded location, it is perfect for alcoholics. No police will be there nobody's wife will drive by. Snowmobilers will have a trailway though there. Retail doesn't belong out in the country. There will be parties and lights all over the place.

Chairman Zimmerman ended the public comment period and let Ms. McDermott speak. She stated that 2,000 farms have closed in NY State 2012-2017. Saratoga County lost farm land as well. They are giving the Town a project that provides economic development, income, tourism and meets the goals in the Comprehensive Plan & the Farmland Protection Plan, which also mentions Ag Tourism. The Town needs

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many of these properties. The neighbors will probably never be happy. They have been using the property without permission for years.

Shawn Sharon stated farming for the future has to find a way for the next generation to come in and farm property. Farm income alone isn't sustainable anymore. What would people like to see if not this? Planting more crops isn't enough. Patrons of this establishment are respectful citizens who don't drink and drive.

Next person has visited many breweries. He mentioned a place in Shelburne VT here there is much less parking. Magic Hat as well. It is large, but there aren't a lot of people there. Waste is shipped out to make energy.

Public comment period ended.

Mr. Arnold commented that they should consider how they are going to market to and deal with the snowmobiles, because that is a good observation.

Mr. Shaver asked if they could have Town engineers look at the water and supply a letter, and if they could hear from DOH.

Mr. Antis asked and they will not store wastewater, the truck will be there to get it when it is produced.

Atty. Bakner stated that they would rather not spend the money on an engineer, but on an actual tank to deal with the issue. The Board has already limited the project and made concessions. They don't want to spend more money. They are willing to get a letter from the Dept of Health.

Mr. Antis argued that if the applicant doesn't have enough water they are only hurting themselves. They have already come up with a way to deal with it.

Mr. Shaver motioned for peer review of the well drawdown and Mr. Bergman seconded. Roll call vote resulted as follows: Mr. Bouchard, No; Mr. Antis, No; Mr. Arnold, No; Mr. Bergman, Yes; Mr. Shaver, Yes; Mr. Jensen, No; Chairman Zimmerman, Yes. Motion fails. 3-4.

Mr. Arico said that they can ask for a DOH letter but it won't be a permit .

Mr. Martin listed outstanding questions. Regarding a sprinkler system, he will ask Matt Dreimiller. Regarding water testing, the wastewater is taken away, regarding traffic 3rd party review? Mr, Martin would like to see more information on accommodating snowmobiles, etc. and on planned events.

Chairman Zimmerman asked whether the Board was ready to move forward.

The deadline for information for Dec. is the 2nd.

Atty. Bakner thought that the only thing they would have to address by then would be the snowmobile question, and the sprinklers. That should not be a problem.

A neighbor asked if they could hire their own water engineer and Atty. Buettner pointed out that the engineer couldn't go on the property. They could review the information appointed by CT Male as it is public record.

Neighbor asked whether they could set up an escrow in case their wells run dry, this is not permitted under the law.

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Mr. Arnold thought that a 2 gal draw would not draw down another well 800 ft away. This is not that different from what they use at their house. Mr. Czub brought up the water that would be drawn if it were a working dairy again.

Chairman Zimmerman asked what Mr. Martin meant by events and Mr. Martin said they could just get more information on what kind and how many events they might plan, since the capacity is not very big. Ms. McDermott said she didn't have anything at this time but she could put something together.

Chairman Zimmerman asked whether there was flexibility about the hours and Atty. Bakner asked what that had to do with snowmobilers. Ms. McDermott stated that they weren't going to allow snowmobilers all over their farm, they might provide parking, but any other use would be trespassing.

Third party review of traffic: Mr. Jensen thought that 700 sq ft wasn't going to draw that much traffic. It is 680 inside 750 outside seasonally. Mr. Arnold argued they should use 1400.

Chairman stated that they could ask for peer review, or go with what they had.

Mr. Martin stated he thought what was done appeared to be reasonable. There are a lot of assumptions made in a traffic study, but even if they called it a tavern, it would be 15-20% different. It is somewhat limited capacity. Mr. Martin would be interested if they could get some numbers from other tasting rooms. They could speak to police departments in the area for anecdotal information. Ms McDermott said that they had reached out when they set up their hours of operations. The Board could do the same for event schedules. Atty. offered to speak to 2-3 small breweries and find out what their traffic is, noting that this is not scientific.

Motion to schedule a public hearing on Dec 16th at 7:01pm for Z-Farm Brewery was made by Mr. Arnold and seconded by Mr. Bouchard.

Mr. Shaver suggested that this be heard on a separate night because there is so much public interest. Mr. Arnold said that since they have already heard community concerns it won't be new, but this is the only thing on the agenda at this time.

Atty. Buettner said that if the hearing went too long, they could continue it. Roll call vote resulted as follows: Mr. Bouchard, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Shaver, Yes; Mr. Jensen, Yes; Chairman Zimmerman, No. Motion carries 6-1.

Mr. Martin stated that the Town is asking for paperwork electronically so that it can be posted on the website. Motion to move the Jan. and Feb. meetings to the 4th Mondays, Jan 27th and Feb 24th 2020 respectively was made by Mr. Antis. Second by Mr. Bouchard, all in favor motion carried with no roll call.

Mr. Bouchard stated he had received an email from Margaret Durka and the email included a statement that this parcel is tax exempt, and that road will have to be patrolled and that the Town Board members become liable for anything bad that happens to anyone in the neighborhood.

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Atty. Buettner stated that Board members are bonded and they are not personally liable. Mr. Arnold stated that he is not tax exempt. Atty. Buettner stated farm breweries do get other exemptions but are not completely exempt.

Motion was made by Mr. Shaver and seconded by Mr. Antis to adjourn at 10:08 pm.

Respectfully Submitted,

Tricia S. Andrews