

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: April 09, 2021

CASE NO(S): PL200284

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Auto-One Car Care & Service Station
Subject:	By-law No. 62/2020
Municipality:	City of Thunder Bay
LPAT Case No.:	PL200284
LPAT File No.:	PL200284
LPAT Case Name:	Auto-One Car Care v. Thunder Bay (City)

Heard: January 15, 2021 by video hearing

APPEARANCES:

<u>Parties</u>	<u>Representative</u>
Thunder Bay (“City”)	Michael Grimaldi
Auto-One Car Care (“Appellant”)	No one appeared
Rheault Distillery (“Applicant”)	Rod Johansen

**MEMORANDUM OF ORAL DECISION DELIVERED BY JATINDER BHULLAR ONN
JANUARY 15, 2021 AND ORDER OF THE TRIBUNAL**

[1] This was the first Case Management Conference (“CMC”) in this matter. The night before Tribunal was informed that the Appellant has signed-off on a draft settlement previously presented to and approved by the City council. With consent of

all parties, this CMC was converted into a settlement hearing.

[2] The Applicant has premises municipally known as 77 Court Street South, Thunder Bay ("Subject Property"). The Applicant proposes to expand existing allowed uses as a "Craft Brewery" to develop and operate a "Micro Brewery" with an associated restaurant/bar area. The specific approval granted by the City is in the form of a site-specific Zoning By-law No. 62/2020 Amendment to the general By-law No. 100-2010 by defining and permitting related uses.

[3] The Affidavit of Service for the CMC was marked as Exhibit 1.

[4] The Tribunal received no additional requests for party or participant status.

WITNESS

[5] There was only one witness. The City Planner Jillian Fazio was called by the Applicant. Ms. Fazio was affirmed by the Tribunal. Ms. Fazio declared that she is a candidate for becoming a Registered Professional Planner. The Tribunal based on her professional experiences and training qualified her to provide opinion evidence in the area of land use planning at this hearing.

EVIDENCE

[6] Ms. Fazio stated that the Application was reviewed by her at the City as part of staff's planning assessment.

[7] Ms. Fazio described that By-law No. 62/2020 defines a "Microbrewery" as a building or part thereof used for the small-scale production of beverages including beer, wine, cider, and spirits

[8] Ms. Fazio described that the requested Zoning By-law Amendment ("ZBA") will change the name "*Microbrewery*" to "*Craft Brewery*" as applicable to Applicant's site

and define the use as an establishment where alcoholic beverages are sold, or served to the public for a fee with or without food, and includes a micro-brewery or distillery for the production of such alcoholic beverages, and may include retail sales of products of the craft brewery, a restaurant, a tasting room, outdoor patio and accessory support spaces; provided that the microbrewery/distillery production portion does not exceed fifty percent of the gross floor area of the craft brewery building.

[9] In a narrow but applicable review of the guiding policy documents, Ms. Fazio opined that is consistent with the Provincial Policy Statement (“PPS 2020”), as it is consistent with the policies described in s. 1.1.1, 1.3.1, and 1.7 and does not conflict with any other policies.

[10] Ms. Fazio added that that the proposal conforms with the Growth Plan for Northern Ontario, 2011, as it strongly supports the strategic core area policies of the plan. Municipalities that contain strategic core areas are encouraged to plan for these areas to function as vibrant , walkable , mixed-use districts that provide a broad range of amenities accessible to residents and visitors including vibrant streetscapes, shopping, and entertainment. It is my opinion that the proposed craft brewery will provide opportunities for shopping and entertainment and add to the vibrancy of the downtown area.

[11] In review of the Official Plan (“OP”), Ms. Fazio opined that the ZBA conforms to the OP as it supports the Plan's general goals, Employment Area policies, and Strategic Core Area policies and does not conflict with any other policies in the Plan. Ms. Fazio continued that the proposed craft brewery contributes to two general goals of the OP. First, it makes efficient use of an existing vacant commercial unit and therefore directs development in an efficient and cost-effective manner. Second, it promotes the growth of a new business at an appropriate location.

[12] In a continued review of the OP, Ms. Fazio opined that the subject property is designated as Strategic Core in the OP and that in her opinion, the proposal promotes many objectives for the Strategic Core Area policies such as maintaining and enhancing

the Strategic Core areas as unique focal points of activity, interest, and identity, strengthening the vibrancy and economic viability of these areas, and attracting new development and employment to revitalize these areas. Ms. Fazio in identifying the positive contributions of the proposal noted that the proposed use has potential to draw residents and visitors to the downtown and support a more vibrant and active streetscape during and after normal office hours. The proposal supports the development of a new business that will also support surrounding businesses in the area.

[13] The Tribunal having reviewed all the evidence and in consideration of the uncontroverted opinion evidence of Ms. Fazio finds that the ZBA has regard for the provincial interest, is consistent with the PPS 2020, conforms with the Growth Plan for Northern Ontario 2011 and the OP. The Tribunal also finds that the proposal is desirable and represents good land use planning.

ORDER

[14] The Tribunal orders that the appeal is allowed in part, and By-law No. 100-2010 is amended as follows:

1. Paragraph 1(1)(a) is replaced in its entirety with the following:

Definitions

“A CRAFT BREWERY is an establishment where alcoholic beverages are sold, or served to the public for a fee with or without food, and includes a micro-brewery or distillery for the production of such alcoholic beverages, and may include retail sales of products of the CRAFT BREWERY, a restaurant, a tasting room, outdoor patio and accessory support spaces; provided that the microbrewery/distillery production portion does not exceed fifty percent of the gross floor area of the CRAFT BREWERY building.”

2. The word “MICROBREWERY” in paragraph 1(1)(b) is replaced with the word “CRAFT BREWERY” ;
3. The word “MICROBREWERY” in paragraph 1(1)(c) is replaced with

the word "CRAFT BREWERY"; and

4. The word "MICROBREWERY" in paragraph 1(1)(d) is replaced with the word "CRAFT BREWERY"

[15] Should there be any difficulties, this Member may be approached.

"Jatinder Bhullar"

JATINDER BHULLAR
MEMBER

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Local Planning Appeal Tribunal

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