



City of West Allis

Legislation Text

File #: R-2011-0158, **Version:** 2

Resolution relative to determination of Special Use Permit to establish outdoor dining extension of premise at Boz's Sports Bar and the Gourmet Cheesecake Shoppe, existing businesses at 1325-1329 S. 70 St.

WHEREAS, Shawn and Laura Lange, d/b/a Boz's Sports Bar, duly filed with the City Administrative Officer-Clerk/Treasurer an application for a special use permit, pursuant to Sec. 12.40(2), Sec. 12.16 and 12.49 of the Revised Municipal Code, to establish outdoor dining extension of premise at Boz's Sports Bar and the Gourmet Cheesecake Shoppe, existing businesses at 1325-1329 S. 70 St.;

WHEREAS, after due notice, a public hearing was held by the Common Council on July 5, 2011, at 7:00 p.m., in the Common Council Chamber to consider the application; and,

WHEREAS, the Common Council, having carefully considered the evidence presented at the public hearing and the following pertinent facts noted:

1. The applicants, Shawn and Laura Lange, d/b/a Boz's Sports Bar, reside at 19675 W. Pheasant Run Dr., New Berlin, WI 53151.
2. The applicant owns the property at 1325-1329 S. 70 St., West Allis, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Southwest $\frac{1}{4}$ of Section 34, Township 7 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, describes as follows:

Lots 33 and 34 in Block 1 of the Otjen Pullen And Shenner's Subdivision.

Tax Key No. 440-0242-000

Said land being located at 1325-1329 S. 70 St. and including a portion of City Right-of-Way.

3. The applicant is proposing to establish outdoor dining extension of premise in the front (east side of) Boz's Sports Bar and the Gourmet Cheesecake Shoppe. The proposed outdoor patio area (extension of premise) will be located on the east side of the existing building and will encroach into City right of way. The extension of premise will offer seating for patrons of both Boz's and the Cheesecake Shoppe. Both uses currently offer seating with their respective establishments and also offer carry-out and catered events by appointment.
4. The aforesaid premise is zoned C-1 Central Business District under the Zoning Ordinance of the City of West Allis, which permits restaurants, cocktail lounges/taverns, bakeries, mixed uses and outdoor dining areas for food establishments as a special use, pursuant to Sec. 12.40(2), 12.49 and Sec. 12.16 of the Revised Municipal Code.
5. The subject property is located on the west side of S. 70 St. Properties to the north, south, and east are

zoned and developed for commercial uses. Properties to the west are zoned and developed for commercial uses and a/one residential use (there is one single family residential use west of the subject property). The subject property is a mixed use property and there are 2 residential dwelling units above the tavern and bakery. A municipal parking lot is located within 200-ft. of the subject property.

6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area as the property is located within a downtown urban neighborhood, served by public transit and off-street municipal parking. Historically this property has functioned as a mixed use (commercial and residential) establishment.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Shawn and Laura Lange, d/b/a Boz's Sports Bar, to establish outdoor dining extension of premise at Boz's Sports Bar and the Gourmet Cheesecake Shoppe, be and his hereby granted on the following grounds:

That the establishment, maintenance and operation of the proposed use, with the imposition of certain conditions hereinafter set forth, reasonably satisfies the standards set forth in Sec. 12.16 of the Revised Municipal Code, so as to permit the issuance of a special use permit as therein provided.

BE IT FURTHER RESOLVED that said special use permit is granted subject to the following conditions:

1. Site, Landscaping and Architectural Plans. The grant of this special use permit is subject to and conditioned upon the Site, Landscaping and Architectural Plans approved on June 22, 2011 by the City of West Allis Plan Commission as provided in Sec. 12.13 of the Revised Municipal Code of the City of West Allis. No alteration or modification of the approved plan shall be permitted without approval by the Plan Commission.
2. Building Plans and Fire Codes. The grant of this special use is subject to building plans being submitted to and approved by the Department of Building Inspections and Zoning and by the Fire Department. Seating capacity shall be in accordance with limits of occupancy load calculations as approved by Building Inspection and Fire Department.
3. Hours of Operation. The hours of operation for the use shall be as follows:
 - A. Tavern/Restaurant - Seven days a week from 10:30 a.m. till state mandated closing time.
 - B. Outdoor Area/Extension of Premise - The hours of operation for the outdoor area shall be in accordance with Sec. 9.02 of the Revised Municipal Code, closed between 12:00 midnight and 10:00 a.m.
 - C. Cheesecake Shoppe/Bakery - Seven days a week from 8:00 a.m. to 8:00 p.m.
4. Operations:
 - A. Excessive odors from cooking on premises shall be controlled within limits of current technology. (Specifications of required machinery can be added).
 - B. Excessive noise and vibrations shall not emanate from the building.
 - C. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis.

- D. Exterior pest control shall be contracted on a monthly basis.
- E. Special events to be authorized by Common Council.
- F. S. 70 St. outdoor dining (front of building) to maintain a minimum of 4 feet unobstructed sidewalk at all times (from exit doors to the public sidewalk).
- G. A food establishment under RMC Section 7.04.
5. Off-Street Parking. The property/development requires a total of 24 parking spaces. Two (2) parking stalls will be provided on site. A municipal parking lot is located within 200-ft of the subject property (and provides 20 parking spaces). Off-street parking is available along S. 70 St. and the area is served by public transit.
6. Litter and Monitoring. Employees shall inspect the area and immediate vicinity and pick up litter on a daily basis. Refuse, recyclables, grease and other waste materials will be fully enclosed within an approved four-sided structure. The bar/restaurant, and outdoor area shall be adequately monitored by staff.
7. Grant of Privilege. The grant of the special use for the outdoor dining area on the front of the building is subject to a Grant of Privilege being issued by the Engineering Department to grant the installation of temporary fixtures including the patio surface, decorative fencing and columns, new furniture, lighting, signage, landscaping and pergola's that will encroach into the City right-of-way.
8. Deliveries and Refuse Pickup. All refuse to be provided by a commercial hauler. All refuse, recyclables and other waste material shall be screened from view within a four-sided enclosure or as approved by the Department of Development to match the building. All tenants of the property will be required to abide by the City of West Allis health/public nuisance rules per Chapter 7 of the Revised Municipal Code. Because there is proximity to residential uses, delivery operations and refuse pick up shall only be permitted during daytime hours. These functions shall not be permitted between the hours of 9:00 p.m. and 7:00 a.m.
9. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area and be installed upon the interior of the window.
10. Marketing Displays. The use of pennants, special lighting, flags, streamers or other signage typically temporary in nature, hanging, floating or attached to a structure or vehicle shall not be permitted.
11. Noxious Odors, Etc. The use shall not emit foul, offensive, noisome, noxious, or disagreeable odors, gases or effluvia into the air. Mechanical systems shall be maintained to efficiently remove noxious odors.
12. Pollution. The use shall not cause any noxious or unwholesome liquid or substance or any dirt, mud, sand, gravel, or stone refuse or other materials to be deposited upon any public right of way or flow into any sanitary sewer, storm sewer, or water supply system, or onto adjacent properties.
13. Noise. All exterior doors and windows of the tavern will be closed to prevent excess noise from penetrating the adjacent neighborhood. The outdoor area/patio will also close at midnight (12:00 a.m.) per the City of West Allis Revised Municipal Code.

14. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries.

15. Sidewalk Repair. The grant of this special use is subject to compliance with Policy No. 2806 of the Revised Municipal Code relative to the City's sidewalk improvement policy as it relates to damaged, abutting sidewalk.

16. Expiration of Special Use Permit. Any special use approved by the Common Council shall lapse and become null and void one (1) year from and after that approval if the use has not commenced, construction is not underway, or the owner has not obtained a valid building permit. An extension of these time limitations may be granted without a public hearing by the Common Council by resolution reauthorizing the special use in accordance with the following criteria:

A. The applicant requesting the extension shall complete a planning application available from the Department of Development and shall submit a \$250.00 extension fee.

B. A written explanation for the extension of time shall accompany the planning application along with a timeline/schedule for obtaining necessary permits, zoning, state and municipal approvals and a target date for construction start;

C. The request for extension shall be submitted within sixty (60) days of the expiration of the special use permit;

D. The extension, if granted, shall be valid for a period of six (6) months. If no building permit has been issued and construction has not commenced within six (6) months from and after the extension has been granted, the special use shall become null and void.

17. Miscellaneous.

A. Applicants are advised that the foregoing conditions are reasonably necessary to protect the public interest and to secure compliance with the standards and requirements specified in Sec. 12.16 of the Revised Municipal Code; that the issuance of the special use is expressly subject to compliance with said conditions.

B. The use, as granted herein, is subject to applicants' compliance with all other state and local laws and regulations, which may be applicable to the proposed use of the real estate in question.

C. The special use, as granted herein, shall run with the land and benefit and restrict all future owners and occupants of the property, unless the use shall lapse or be terminated and the use will not be altered or extended (including structural alterations and/or additions) without the approval of the Common Council, following public hearing, all as provided in Sec. 12.16 of the Revised Municipal Code.

18. Lapse. If the applicant does not meet all of the terms and conditions set forth in this grant of a special use within one year of the granting thereof, then the Special Use Permit shall lapse and become null and void and the applicant shall forfeit any right to use the property as conferred by the Special Use Permit. The failure of the applicant to meet the terms and conditions of the Special Use Permit shall subject the permit to being declared void by the Common Council after notice to the applicant and a hearing before the Safety and Development Committee. Upon a finding and recommendation by the Committee to the Common Council on the matter, the applicant and/or any interested person may make comments regarding the matter to the Common

Council prior to the Common Council's next regular meeting following the recommendation. Upon the Common Council's finding that the Special Use Permit has lapsed and become void, the applicant shall cease all operations at the property.

19. Termination of Special Use. If the person or entity granted the special use violates, allows or suffers the violation of the ordinances of the City of West Allis, the State of Wisconsin or the United States on the premises covered by the special use, the special use may be terminated.

20. Acknowledgement. That the applicant signs an acknowledgment that he has received these terms and conditions and will abide by them.

The undersigned applicant agrees to the terms and conditions and has agreed that the grant of the Special Use Permit is conditioned on meeting the terms and conditions of this resolution.

Shawn Lange, Property owner

Mailed to applicant on the
_____ day of _____, 2011

Assistant City Clerk

cc: Dept. of Development
Dept. of Building Inspections and Zoning
Div. of Planning
ZON-R-824-7-5-11-amended