

PLANNING BOARD

Meeting Minutes
Thursday, April 11, 2019
Judge Welsh Room
6:30 P.M.

Members Present: David Abramson, Brandon Quesnell, Jason Potter, Paul Graves, Shane Landry, John Peters-Campbell, and Ross Zachs.

Members Absent: None.

Staff: David Gardner (Assistant Town Manager) and Ellen C. Battaglini (Permit Coordinator).

Chair David Abramson called the Public Hearing to order at 6:30 P.M.

1. Board Elections:

Chair: *There was a motion by Jason Potter to elect David Abramson as Chair. Ross Zachs seconded. VOTE: Unanimous.*

Vice Chair: *There was a motion by Paul Graves to elect Jason Potter as Vice Chair. Ross Zachs seconded. VOTE: Unanimous.*

2. Public Comments: None.

3. Public Hearings:

a) PLN 19-35 (*request to withdraw without prejudice*)

Application by **David Krohn** requesting a Special Permit pursuant to Article 4, Section 4180, Inclusionary Incentive By-Law, for the development of two or more new dwelling units on the property located at **66 & 72 West Vine Street**. There was a request from the applicant to withdraw PLN 19-35 without prejudice. *There was a motion by Jason Potter to grant the request to withdraw PLN 19-35 without prejudice. Brandon Quesnell seconded. VOTE: 5-0-0.*

b) PLN 19-36 (*request to withdraw without prejudice*)

Application by **David Krohn** requesting a Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a (1), of the Zoning By-Laws for the construction of a single family structure and a duplex, an increase of residential units that will result in three or more dwelling units on the property located at **66 & 72 West Vine Street**. There was a request from the applicant to withdraw PLN 19-36 without prejudice. *There was a motion by Jason Potter to grant the request to withdraw PLN 19-36 without prejudice. Brandon Quesnell seconded. VOTE: 5-0-0.*

c) PLN 19-32

Application by **Robin B. Reid, Esq.**, on behalf of **BWell, Inc.**, requesting a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B14, Marijuana Establishment,

Retail, of the Zoning By-Laws for a change in use to a retail/adult-use marijuana store at the property located at **336 Commercial Street, #5**.

d) **PLN 19-42**

Application by **Robin B. Reid, Esq.**, on behalf of **BWell, Inc.**, requesting a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B15, Marijuana Establishment, Production, of the Zoning By-Laws for a small-scale production and product assembly site at the property located at **336 Commercial Street, #10**.

Presentation: Attorney Robin B. Reid and Karen Nash presented the application. Attorney Reid stated that even though these are two separate applications for two separate spaces, the two cases are related with the same business owner/operator. The retail aspect of the operation is similar to those marijuana businesses recently approved by the Board, but smaller. The production aspect is a small-scale infusion and assembly operation. There will be no additional sewage or waste created as a result of the production element and there will be no growing, extraction or delivery to the premises of bales of marijuana. There will only be small deliveries to the premises of cannabis extract, cannabis flour and other cannabis wares, which will be made by car or small van at off-hours. Wholesale merchandise to be delivered to customers will leave the premises in the same manner. The labeling on the products will indicate detailed contents and appropriate warnings and the packaging will be child- and tamper-resistant. A community meeting has been held and several neighbors and representatives of an abutting condominium association attended. Concerns included objections to the sales of marijuana products, a concern about an increase in traffic and the fear of marijuana consumption outside in the neighborhood. The applicant addressed most of the concerns to the satisfaction of those attending. American Alarm and Communications has been hired by the applicant to install security cameras and alarms, which will be monitored 24-hours a day, and for security and diversion prevention consultation. The security infrastructure will include a generator, which will be installed onsite in a rear alleyway, and motion detectors on all windows and doors, perimeter alert alarms and security cameras. The applicant is willing to give the Provincetown Police Dept. a feed to the security apparatus, if requested. Vaults will be located in both units in areas with limited, only employees allowed, access. A security guard will be posted at the door in the retail space to perform the first ID screening. The property is well-lit, however the applicant is willing to install more lighting if required by the Board or deemed necessary by Town staff, the Police Chief or the applicant's security company. The applicant has a pre-ordering app available in order to aid in the control of pedestrian traffic to the store. The Institute for Transportation Engineers' standards for retail spaces are five to eighteen trips, both the in and the out, per hour depending on the day of the week. Attorney Reid argued that the retail business should have no significant impact on pedestrian traffic on Commercial Street in the Town Center Commercial Zone. She anticipates that most customers will arrive on foot or by bicycle. If not, there are two public parking facilities nearby, within walking distance; one to the east and one to the west. She said that bike racks were located in the nearby Johnson Street parking lot, in front of the Visitors' Services Bureau right next door and at the bottom of Pearl Street. She said that there were on-site bike racks that were controlled by the landlord. The applicant is looking to install another one under an overhang on the property's walkway. The production space will generate no traffic except from employees of the business. She reviewed the queuing demands on the site, as there is a box office that is located next door, which, she pointed out, is open at different hours than the business will operate. If any queuing issues arise, both the landlord and the applicant will be motivated to

find a solution, as both of their businesses will depend on a quick resolution. She argued that the social, economic and other benefits to the neighborhood and Town vastly outweigh the non-existent adverse impacts. The business will be open year-round, it will provide a safe, legal, and comfortable environment for the procurement of marijuana products. She emphasized that this is a small business and will be adding value to the Town. The business is committed to providing medical-grade marijuana on a sliding scale fee basis. Year-round employment will be provided for three employees plus the applicant, and, most likely, more during the summer season. A Townie card for Town residents will be available for discounts. The business is dedicated to making the health benefits of marijuana available to all. The business will collect 10.75% state excise taxes and 6.25 % state sales tax and 3% of sales will accrue to the Town. In addition, a long-term goal of the applicant is the establishment of an incubator and commissary kitchen for the development of edibles and fusion products in an effort to add more local value and to provide more employment and business opportunities in Town. Attorney Reid reiterated that there would not be any adverse effects as a result of the establishment of this business and no added extraordinary congestion will be created. Ms. Nash reviewed the product assembly element of her business, including showing a picture of an infuser, describing the ingredients used, and passing around an example of the actual size of the product.

Public Comment: An abutter spoke in opposition to the application and Ryan Campbell spoke in support of the application.

Board Discussion: The Board questioned Attorney Reid and Ms. Nash about security issues, congestion, providing more bike racks, the occupancy numbers for the premises, the potential for queuing problems and congestion, discussions with the Police Chief, the location of the generator, and the movement of products between the two spaces. Ms. Nash said that a dumb waiter might be installed in the future for convenience. Wholesale product leaving the site will be transported via secure transportation means. Attorney Reid explained the generator location and said that the applicant would install more bike racks if the landlord would allow it and that the website for the business will be clear as to the options for accessing the site. Ms. Nash's products will be distributed throughout the state, as an element of her business model is wholesaling, and this location won't be the only one where customers can obtain her product.

Mr. Gardner said that this is a change in use review and that the Board's job was to determine if the site was adequate for the location of a marijuana retail and production business, rather than a site plan review, as with most of the previous applications reviewed. The criteria for approval are contained in Article 5, Section 5330 of the Zoning By-Laws. For previous smaller sites, a trip generation traffic memo only had been required by the Board. He said that the traffic data submitted for these small sites, such as Hennep, would be a propos for this site. Specific traffic data was hard to ascertain, as no comparable business such as this one yet exists. He added that the Town's licensing process will have more oversight and review over the operational aspects of these types of uses once they have opened and been in business for a year, as it is done on an annual basis. The Board discussed the proposed conditions from staff. Attorney Reid indicated that a lot of the concerns of the Board were already highly regulated by the state's Cannabis Control Commission. She said that Ms. Nash would work on providing more bike racks on the premises. In addition, given the Board's concerns and questions about the generator and the dumb waiter, Attorney Reid said for the purposes of this application that a dumb waiter will not be installed and that a generator will be provided by the applicant.

PLN 19-32: *There was a motion by Jason Potter to grant a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B14, Marijuana Establishment, Retail, of the Zoning By-Laws for a change in use to a retail/adult-use marijuana store at the property located at 336 Commercial Street, #5 with the following conditions:*

- *Prior to the issuance of a Building Permit, the applicant shall evidence adequate site control to execute the project consistent with the conditions herein;*
- *All queuing of customers shall occur internal to the site;*
- *Doors and windows for the building shall provide adequate security for the use. Prior to issuance of a Building Permit for the project, detailed specifications on doors and windows shall be submitted for review and approval by Town staff and incorporated by reference into the decision;*
- *Lighting shall provide adequate public safety while complying with the Zoning By-Laws. Prior to issuance of a Building Permit for the project, detailed specifications on lighting fixtures and locations shall be submitted for review and approval by Town staff and incorporated by reference into the decision;*
- *All promotional materials and the website for the marijuana facility shall clearly and prominently state that there is no parking at the site and provide directions to public vehicle and bicycle parking options nearby;*
- *Applicant shall coordinate with the Town Planner and the property owner regarding the addition of bicycle racks on the site to the best of their ability. If no additional bicycle racks can be installed on the site, they shall be provided in another location;*
- *Local delivery of retail product to customers and/or on-site consumption shall not be allowed at the site without modification of this Special Permit; and*
- *If the applicant does install a generator on the site, it shall follow the Planning Board standard schedule for weekly testing of Monday through Friday from 12:00 P.M. and 4:00 P.M.*

Ross Zachs seconded. VOTE: 5-0-0.

PLN 19-42: *There was a motion by Jason Potter to grant a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B15, Marijuana Establishment, Production, of the Zoning By-Laws for a small-scale production and product assembly site at the property located at 336 Commercial Street, #10 with the following conditions:*

- *Prior to the issuance of a Building Permit, the applicant shall evidence adequate site control to execute the project consistent with the conditions herein;*
- *Doors and windows for the building shall provide adequate security for the use. Prior to issuance of a Building Permit for the project, detailed specifications on doors and windows shall be submitted for review and approval by Town staff and incorporated by reference into the decision;*

- *Lighting shall provide adequate public safety while complying with the Zoning By-Laws. Prior to issuance of a Building Permit for the project, detailed specifications on lighting fixtures and locations shall be submitted for review and approval by Town staff and incorporated by reference into the decision;*
- *Pickup and delivery of product to and from the site shall occur only between the hours of 6:00 A.M. and 12:00 P.M. and shall not exceed one vehicle per day;*
- *Local delivery of retail product to customers and/or on-site consumption shall not be allowed at the site without modification of this Special Permit; and*
- *If the applicant does install a generator on the site, it shall follow the Planning Board standard schedule for weekly testing of Monday through Friday from 12:00 P.M. and 4:00 P.M.*

Paul Graves seconded. VOTE: 5-0-0.

3. Work Session:

a) **Pending Decisions:**

PLN 19-21

Application by the **Town of Provincetown** requesting Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (5), of the Zoning By-Laws for land removal or earth-moving of more than 750 cu. yds. that will alter the topography from natural grade, to construct a two-story police station to include a bureau of records, a dispatch and patrol command, administration and senior command, detectives' and sergeants' units, police operations, detention, personnel support and operations support on the property located at **16 Jerome Smith Road** with a requested waiver pursuant to Article 4, Section 4030, Waiver, of Article 4 Section 4163, Residential Design Standards, 3., of the Zoning By-Laws that the minimum width of traveled surface within the site shall not be less than eighteen feet. The decision was not approved due to quorum issues. The decision was not ready. David Abramson, John Golden, Brandon Quesnell, Jason Potter and Paul Graves sat on the case. David Abramson read the decision. *There was a motion by Jason Potter to approve the language as amended. Brandon Quesnell seconded. VOTE: 4-0-0.*

PLN 19-38

Application by **William N. Rogers, II**, on behalf of **Milan Realty, LLC**, requesting a Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (4), of the Zoning By-Laws to modify a condition of a previously-approved Special Permit FY17-14 requiring the placement of utilities underground on the property located at **130 Bradford Street**. David Abramson, Brandon Quesnell, Jason Potter, Paul Graves and Shane Landry sat on the case. David Abramson read the decision. *There was a motion by Jason Potter to approve the language as amended. Brandon Quesnell seconded. VOTE: 5-0-0.*

PLN 19-39

Application by **Chris Hartley** requesting Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a (4) of the Zoning By-Laws for the development of a nano brewery on a commercial property that has a curb cut of more than 25% of its existing frontage on the property located at **141 Bradford Street**. David Abramson, Brandon Quesnell, Jason Potter, Paul Graves and Shane Landry sat on the case. Jason Potter read the decision. *There was a motion by David Abramson to approve the language as written, Paul Greaves seconded. VOTE: 5-0-0.*

b) **Discussion of potential changes to the Inclusionary and Incentive Zoning By-Law.**
This issue was not discussed.

c) **Minutes of April 23, August 27 and October 22, 2015, January 14, March 24, April 28, June 9, 2016 and March 28, 2019.**

March 28, 2019: *There was a motion by David Abramson to approve the minutes as written. Jason Potter seconded. VOTE: 5-0.*

d) **Any other business that may properly come before the Board:**

There was a motion by Brandon Quesnell to adjourn the Planning Board meeting at 8:30 P.M. Ross Zachs seconded. VOTE: Unanimous.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2019
David Abramson, Chair