

PLANNING BOARD

Meeting Minutes

Thursday, January 10, 2019

Judge Welsh Room

6:30 P.M.

Members Present: David Abramson, John Golden, Jason Potter and Paul Graves.

Members Absent: Brandon Quesnell (excused).

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

Chair David Abramson called the Public Hearing to order at 6:35 P.M.

1. **Public Comments:** None.

2. **Public Hearings:**

a) **PLN 19-06** (*request to postpone to the meeting of January 24th*)

Application by **J. Bruce MacGregor, Trustee, Cape Commerce Nominee Trust**, requesting a 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 one-bedroom, single-family residence on the property located at **13 Willow Drive** with requested waivers pursuant to Article 4, Section 4030, Waivers, including from Article 4, Sections 4053, Commercial Design Standards, 4163, Residential Design Standards, 2. and 3. and 4600, Street Trees and Article 5, Section 5331, Developmental Impact Statements. There was a request from the applicant to postpone PLN 19-06 to the Public Hearing of January 24, 2019 Public Hearing. *There was a motion by John Golden to grant the request to postpone PLN 19-06 to the January 24, 2019 Public Hearing at 6:30 P.M. Jason Potter seconded. VOTE: 4-0-0.*

b) **PLN 19-18** (*postponed from the meeting of December 13th*)

Application by **Katherine Braucher Adams, Esq.**, on behalf of **Heal, Inc.**, requesting a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B14, Marijuana Establishments, Retail, of the Zoning By-Laws for a change in use of a structure to a retail marijuana establishment at the property located at **48 Shank Painter Road**.

c) **PLN 19-19** (*postponed from the meeting of December 13th*)

Application by **Katherine Braucher Adams Esq.**, on behalf of **Heal, Inc.**, 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 commercial property that has a curb cut greater than 25% of its existing street frontage on the property located at **48 Shank Painter Road** with requested waivers pursuant to Article 4, Section 4030, Waiver, from Article 4, Sections 4140, Lot Coverage, 4150, Green Space, 4163, Residential Design Standards, 2. and 3., and 4600, Street Trees. David Abramson, John Golden, Jason Potter and Paul Graves sat on both cases.

Presentation: Attorneys Katherine Adams and Robin B. Reid, representing Heal, Inc., Trish Faass, President and Chief Executive Officer of Heal, Inc., Jim Bonaccorsi and Alex Oliphant, principals in Heal, Inc., Brad Malo, of Coastal Engineering, and Ted Smith, architect, appeared

to present the application. Attorney Adams noted that since there were only four members of the Board and asked the Chair whether a poll could be taken before a final vote given that a unanimous vote was needed to be granted a Special Permit. He agreed. She then reviewed a PowerPoint presentation of the project, including elements of the existing site plan that will be revised. The retail marijuana facility will provide products for medical as well as adult use marijuana. The structure currently contains two residential units; a three-bedroom unit and a one-bedroom unit, the latter of which contains 748 square feet and will be converted into the dispensary. The remaining unit will remain residential. The exterior changes to the site will be minor with a ramp installed to facilitate access by customers of all abilities to the front door. The site currently has four parking stalls, which require vehicles exiting the property to back out onto Shank Painter Road, which is a hazard to public safety. The current project proposes three stalls to be moved out of the public right-of-way and wholly onto the site. In the proposed configuration, the stall closest to the dispensary will be reserved for handicap customers and there will be room behind the stalls for vehicles to back up in order to enter Shank Painter Road nose first. The reason for the change is that the site's current parking configuration is unsafe and the Town intends to install sidewalks on Shank Painter Road in the future. A small strip of grass will be left open between the parking area and the road to be enhanced by vegetation. Attorney Adams said that the project will create an increase in the lot coverage and a decrease in the green area, both of which have been approved by the Zoning Board of Appeals, as has been a waiver of the parking requirements. And, she added, this application also requests a waiver of the green area. She noted that the applicant has leased parking spaces nearby at 34 Court Street for the residential unit parking. She added that all exterior light fixtures will be dark sky compliant, unless otherwise dictated by the Police Chief's security requirements for the site. Netwatch, USA, a security monitoring company, will actively monitor the site at all times. Eight cameras will be installed on the exterior and ten in the interior of the structure. The Provincetown Police will have a live stream of the cameras at all times. The cameras are infrared and do not need light to record or monitor. Netwatch will also install motion detector and glass-break detectors as well on the windows. She said that extensive security protocols have been sent to the Police Chief for his review. No audible alarms are proposed. Back-up power via a generator, located next to the structure and tested weekly during the day, will be available for all security features on the site. A bike rack will be located on the site. She then reviewed how customers will maneuver inside the facility once they enter. A security attendant will be located at the entrance, in a secure vestibule, to screen customers. Education of customers and patients will be an important focus of Heal, Inc. An accessible bathroom will be available to customers and deliveries will take place once or twice a week at random times before the dispensary opens. The applicant will encourage employees to reach the site by foot or bicycle. There is a parking lot at 25 Shank Painter Road, in close proximity to the property, to accommodate customers who drive to the site. She briefly reviewed the trip generation memo that predicted 8 trips into and 8 trips out of the site per hour during peak weekday hours and 13 trips into and 14 trips out of the site during peak hours on Saturday. However, Attorney Adams explained that other marijuana retail sites will be opening in Town, most likely before this one, so she contended that future traffic volume will not be overwhelming. A host agreement has been signed providing economic benefits to the Town.

Attorney Reid reviewed the requested waivers, including lot coverage, green space, street trees, curb radii and the width of curb cuts, the way width within the property and the development impact statement.

Attorney Adams concluded that pursuant to Article 5, Section 5330, the economic and other benefits of the project, including improvements to safety and access and their conformity with the Town's long range plan to install sidewalks on Shank Painter Road, an increase in local sales tax collection, the host agreement payments and the applicant's intention to make positive contributions to the community, add employment opportunities and provide access to a high quality product to residents will outweigh any impacts such as hazard, congestion or environmental degradation.

Public Comment: None. There were no letters in the file.

Board Discussion: The Board questioned Attorneys Adams and Reid, Ms. Faass, Mr. Malo and Mr. Smith. The latter described the added strength of the material in the wall that is located between the residential unit and the dispensary unit. Mr. Malo clarified questions regarding access to the back of the property, stating that a retaining wall and a drop in grade on that side of the structure are not conducive to foot traffic. He briefly reviewed the proposed landscaping on the site. The Board noted the conditions that the Police Chief had recommended. Mr. Abramson closed the public hearing. He reviewed the staff-proposed conditions. The Board expressed no objections to the requested waivers.

There was a motion by John Golden to grant a Special Permit pursuant to Article 2, Section 2440, Permitted Principal Uses, B14, Marijuana Establishments, Retail, of the Zoning By-Laws for a change in use of a structure to a retail marijuana establishment at the property located at 48 Shank Painter Road. Jason Potter seconded. VOTE: 4-0-0.

There was a motion by John Golden to grant a Special Permit for Site Plan Review pursuant to Article 4, Section 4015 Site Plan Review by Special Permit, a. (4), of the Zoning By-Laws for the development of a commercial property that has a curb cut greater than 25% of its existing street frontage on the property located at 48 Shank Painter Road with the conditions as discussed. Jason Potter seconded. VOTE: 4-0-0.

There was a motion by John Golden to grant the waivers as requested in PLN 19-19. Jason Potter seconded. VOTE: 4-0-0. Jeff Ribeiro will write the decision. Attorney Reid offered to submit a draft decision for consideration by the Board.

d) **PLN 19-21** (*request to continue to the meeting of January 24th*)

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. There was a request from the applicant to postpone PLN 19-21 to the

January 24, 2019 Public Hearing at 6:30 P.M. *There was a motion by John Golden to grant the request to postpone PLN 19-21 to the January 24, 2019 Public Hearing at 6:30 P.M. Jason Potter seconded. VOTE: 4-0-0.*

e) **PLN 19-22**

Application by **Ezra Parzybok**, on behalf of **Hennep, 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 of use to establish a retail marijuana facility in the structure located at **246 Commercial Street**. David Abramson, John Golden, Jason Potter and Paul Graves sat on the case.

Presentation: Attorney Richard Evans, representing the applicant, Ezra Parzybok and Paige Koudjis, advisors to the project, and Alison Alessi, an architect, appeared to present the application. Attorney Evans reviewed the proposal and the site. He indicated that the exterior changes to the structure will be very minimal. The interior plan will meet the requirements of the state Cannabis Control Commission. He argued that the project would have none of the impacts enumerated in Article 5, Section 5331, Development Impact Statement. He said that the project supported the goals and objectives of the Local Comprehensive Plan, in that it will be a year-round business supporting a year-round economy, will utilize an existing building, will provide employment for residents and will prioritize the hiring of local contractors and vendors. The proposed security plan has been developed to adhere to the requirements of the CCC and the security firm of American Alarm has been hired to create and implement the plan, which will be done in consultation with the Police Chief, addressing his security concerns regarding the property. Mr. Parzybok commented about the project's security plan and said that American Alarm has worked with about 30 marijuana facilities across the Commonwealth. Attorney Evans said that a generator will be located in the rear of the building. He said that the project includes renovating the interior of an existing structure and deliveries will be made in the early morning hours. Neither Attorney Evans nor Mr. Parzybok anticipated any problems with vehicle or foot traffic, as more dispensaries open in Town and more people find it convenient to order online. Attorney Evans noted that a traffic study had been submitted to the Board stating that traffic to the site will not be significant. He noted that most traffic will be of the pedestrian type. He reviewed the benefits that will result from the project, such as the Town receiving 3% of sales in excise taxes, employment for residents, a community impact fee of 3% of gross sales, a 1% tax which will go to a Town-designated charity, and hopefully, a decrease in alcohol and opioid drug use. Mr. Parzybok reviewed the effect of legalization of marijuana around the country and said that it will be a net benefit to, and will not have a negative effect on, the community. Attorney Evans reiterated that the benefits to the Town will outweigh any adverse effects, which he argued will be nonexistent.

Public Comment: None. There were no letters in the file.

Board Discussion: The Board questioned Attorney Evans and Mr. Parzybok about the project, including clarifying security issues, describing changes to the integrity of the structure's interior materials to increase the security of the structure and related to the safety in terms of exterior lighting of the alleyway on the east side of the building, which is owned by another party. The Board was concerned about materials that will be used in the renovation of the interior of the building. Mr. Parzybok reviewed the security concerns raised by the Board, stating that the security of the vault room, which will have steel walls and contain a steel vault,

where the money and product will be stored, will be more than adequate to allay those concerns. He explained how security risks, such as break-ins, would be mitigated. The Board asked about the occupancy of the building in terms of public safety and the potential for excessive pedestrian queuing on the sidewalk. Mr. Gardner said that an occupancy number will be assigned and the number of customers allowed would be set. In order to mitigate excessive pedestrian queuing, Mr. Parzybok said that customers can choose to order via Hennep's website or call ahead for pick-up and that if the line outside the business is having a negative impact on the flow of foot traffic on the sidewalk or creating a public safety hazard, an employee will inform those present of alternative options for purchasing product. The Board requested more information from the applicant regarding proposed exterior lighting fixtures, which should be dark sky compliant, and their locations on the site. Staff will review the submission of lighting specifications and fixtures. Mr. Parzybok said that there had been no proposed lighting changes, but will reconsider the issue and work on the Board's request. Mr. Abramson closed the public portion of the hearing. The Board reviewed staff recommendations regarding conditions. The Board discussed what further information it needed from the applicant in order to render a decision. It was suggested that Mr. Parzybok discuss lighting and any further changes to the windows in the alleyway with staff before the next hearing.

There was a motion by John Golden 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 of use to establish a retail marijuana facility in the structure located at 246 Commercial Street with the conditions as discussed. Jason Potter seconded. VOTE: 4-0-0. Jeff Ribeiro will write the decision.

4. Work Session:

a) **Discussion with Doug Dolezal regarding 30 Shank Painter Road and the Inclusionary By-Law.** Mr. Dolezal reviewed his project, including the building's configuration, the site's landscaping, its zoning compliance and site and building plans, including several updates about deck proposals and clarifying hardscape and landscape materials. He said he was looking for Board feedback. The Board briefly commented on the project.

b) **Discussion of zoning amendments to be proposed at the Spring Annual Town Meeting, including potential amendments to encourage the production of housing.** Mr. Gardner said that staff will present revisions for discussion at the January 24, 2019 Public Hearing. He said revisions might include definitions regarding mobile homes, campground tiny homes and a revision of the density schedule.

e) **Discussion of planting list and categories** (placeholder).

f) **Discussion of proposed standard conditions for telecommunications facilities** (placeholder).

g) **Minutes of April 23, August 27 and October 22, 2015, January 14, March 24, April 28, June 9, 2016 and December 13, 2018.**

December 13, 2018: *There was a motion by John Golden to approve the minutes as written. Jason Potter seconded. VOTE: 4-0-0.*

h) **Any other business that may properly come before the Board:** None.

There was a motion by John Golden to adjourn the Planning Board meeting at 9:00 P.M. Paul Graves seconded. VOTE: 4-0-0.

Respectfully submitted,

Ellen C. Battaglini

Approved by _____ on _____, 2019
David Abramson, Chair