



Town of Provincetown
Planning Board
Town Hall
Provincetown, MA 02657

JANUARY 24, 2019

FINDINGS AND DECISION OF THE PLANNING BOARD

Findings and Decisions of the Planning Board

Applicant: Heal, Inc. c/o Katherine Braucher Adams, Esquire

Owner: 48 Shankpainter LLC et al

Property Location: 48 Shank Painter Road, Provincetown, MA

Assessor's Map and Parcel: 7-3-1-0

Zoning District: GC

Lot Area: 6,883 Square Feet

PLN 19-18 Application by Heal, Inc., on behalf of 48 Shankpainter LLC, requesting a Special Permit pursuant to Article 2, Districts and District Regulations, Section 2440, Permitted Principal Uses, B14, Marijuana Establishments Retail, of the Zoning By-Laws to operate a retail marijuana establishment at the property located at 48 Shank Painter Road.

PLN 19-19 Application by Heal, Inc., on behalf of 48 Shankpainter LLC, requesting Site Plan Approval pursuant to Article 4, Special Regulations, Section 4015, Administrative Site Plan Review, of the Zoning By-Laws for a development of commercial property with a curb cut of greater than 25% of existing or proposed street frontage for property located at 94 Harry Kemp Way with waivers from Article 4, Sections 4140, lot coverage. 4150, Green space, 4163(2) curb radii, 4163(3), Way width, and 4600, Street trees.

The public hearing was held on January 10, 2019 at Provincetown Town Hall, 260 Commercial St, Provincetown, MA. There were 0 public comments and 0 letters.

Planning Board members present were:

Dave Abramson, Chair

Jason P. Potter

Paul C. Graves

John Golden

The four members present satisfied the legal quorum of four members. Attorneys Katherine Adams and Robin B. Reid; owners of Heal Inc. Alexander Oliphant, Trish Faass and Jim Bonaccorsi; Ted Smith, of Ted Smith Architecture; Brad Malo, of Coastal Engineering, appeared to present the application.

Decision: By votes of four in favor, none opposed, none abstaining, the Planning Board Approved this application.

General Findings:

1. The Property is located at 48 Shank Painter Road in the General Commercial District.
2. The lot consists of 6,883 +/- square feet occupied by an existing residential building containing one 3 BR unit and one 1BR unit.
3. Present use is residential.
4. The Project as proposed consists of renovating the 1BR unit to serve as a Marijuana Establishment in accordance with the site plan "Plan Showing Proposed Site Improvements", prepared by Coastal Engineering, dated September 28, 2018 and revised December 1, 2018.
5. Vehicle access is from Shank Painter Road. There are currently no sidewalks.
6. The Project was reviewed on the Special Permit criteria as listed in Section 5300 of the By-laws.
7. The proposal is in accordance with the Provincetown Zoning By-Laws.
8. The proposal meets the design requirements of § 4163.
9. The proposal significantly improves the safety and convenience of vehicular and foot traffic at the Property.
10. The proposal meets the environmental protection requirements of § 5331.
11. The site has no particular unique natural, historic or scenic features.
12. The proposal is not within a flood hazard area.
13. The proposal protects public amenities and abutting properties from any detrimental impacts of the proposed use.
14. All lighting will be in accordance with § 3430, dark sky compliant.
15. The applicants shall deliver significant tax and community benefits to the Town.
16. During the public hearing the Board heard from Town Staff and from the applicant and its representatives. No residents spoke at the public hearing, and there were no letters from residents.

Specific Findings:

1. The proposed use meets the requirements of Section 5330 of the Provincetown Zoning Bylaws, Special Permits. The Planning Board determined that the social, economic or other benefits of the proposal for the neighborhood or town outweigh any adverse effects such as hazard, congestion or environmental degradation.
2. The plan meets the requirements of Section 4000 of the Provincetown Zoning Bylaws, Site Plan Review. Specifically, the Planning Board made the following decisions based on the following sections:
 - a. §4035(a-h) The board determined the requirements in these subsections are met by the proposed project.
 - b. § 4140 The board determined that the proposed parking and access improvements to the site increase the safety and convenience of pedestrian and vehicular movement within the site.
 - c. §4150 The board determined that the proposed parking and access improvements to the site increase the safety and convenience of pedestrian and vehicular movement within the site.
 - d. §4163(1))(4)(5)(6)(7) The board determined the requirements in these subsections are met by the proposed project.

- e. §4163(2) Curb Radii The board determined that the proposed parking and access improvements to the site increase the safety and convenience of pedestrian and vehicular movement within the site.
 - f. §4163(3) Way Width The board determined that the proposed parking and access improvements to the site increase the safety and convenience of pedestrian and vehicular movement within the site.
 - g. §5331(a)(b)(c)(d)(f)(h)(i)(j) The board determined that the proposal would cause no impact under these subsections.
 - h. §5331(e) The board determined that the proposal did not create an excessive burden.
 - i. §5331(g) The board determined that the proposal did not create an excessive burden.
 - j. Impact of any additional burdens the proposed project may place upon the public safety services (such as fire and police), including probable cost in terms of hours and facilities both during and after construction.
3. The plan meets the requirements of Section 5330 Special Permits. The Planning Board determined that the social, economic or other benefits of the proposal for the neighborhood or town outweigh any adverse effects such as hazard, congestion or environmental degradation.

Based on the findings, the **Planning Board voted to grant a Special Permit** pursuant to Article 2, Districts and District Regulations, Section 2440, Permitted Principal Uses, B14, Marijuana Establishments Retail, **and to grant the Site Plan by Special Permit** pursuant to Article 4, Special Regulations, Section 4015, Site Plan Review, **with waivers and conditions as outlined below.**

WAIVERS: The Planning Board granted the waivers from the following standards:

1. §4140, Lot Coverage;
2. §4150, Green Space;
3. §4053(1)(a), Curb Cut;
4. §4163 (2), Curb Radii;
5. §4163 (3), Minimum Width Traveled Surface;
6. §4600, Street Trees; and
7. §5331, Development Impact Statement.

CONDITIONS: The Planning Board voted to impose the following conditions:

1. Routine testing of the generator shall occur between the hours of noon and 4:00PM on weekdays so as to be least impactful to abutters.
2. 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.
3. 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.

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4. All promotional materials and the website for the marijuana facility shall provide information on site parking being limited to a single handicap space and directions to public parking options nearby.
5. Bicycle parking for no less than 4 bicycles shall be provided on-site. Bicycle racks shall be of "post and ring" or "inverted u" type.
6. 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.

MOTIONS:

The Provincetown Planning Board approved the Special Permit for Application PLN 19-18 based on the findings as set forth above.

Motion: John Golden Seconded: Jason Potter Vote: 4-0-0

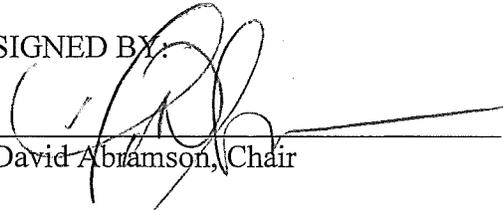
The Provincetown Planning Board approved the waivers requested by Application PLN 19-19 based on the findings as set forth above.

Motion: John Golden Seconded: Jason Potter Vote: 4-0-0

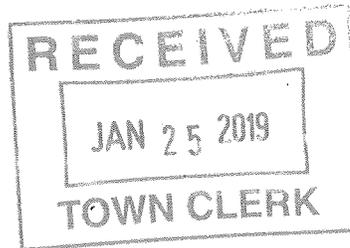
The Provincetown Planning Board approved the Special Permit for Application PLN 19-19 based on the findings as set forth above.

Motion: John Golden Seconded: Jason Potter Vote: 4-0-0

SIGNED BY:



David Abramson, Chair



DATE OF FILING

DATE

1/24/2019

A copy of this application, bearing the signatures of the sitting members, and the date of this decision, will be on file in the Provincetown Town Clerk's Office as well as the Department of Community Development.

The Special Permit issued hereunder shall not be valid until recorded at the Registry of Deeds in Barnstable as provided in MGL c.40A.

Important: Any appeal from the decision of the Planning Board can be made only to the Court and must be made pursuant to MGL Chapter 40A, Section 17, as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.