



TOWN OF HOPEDALE
ZONING BOARD OF APPEALS
TOWN HALL
78 HOPEDALE STREET
HOPEDALE, MA 01747

Christopher P. Hodgens, Chairman
Nicholas A. Alexander, Member
Sandra E. Biagetti, Member
Louis J. Costanza, Member
Scott M. Savage, Member
Mary T. Arcudi, Alternate

**Hopedale Zoning Board of Appeals
Meeting Minutes
December 15, 2021**

Chairman Christopher Hodgens called the public meeting and continued public hearings to order on December 15, 2021 at 7:01 pm. Meeting was held in the Town Hall Draper Room, streamed live via Zoom and on Hopedale Cable Access.

Participation was made available through the following Zoom link:

Join Zoom Meeting

<https://us02web.zoom.us/j/89428044314?pwd=SUFVVmo3V2UydVRoN014a3cyT2tHZz09>

Recorded meeting can be found on the Town of Hopedale website under meeting videos.

Members that were present for each case:

Christopher Hodgens, Chair
Nick Alexander
Sandra Biagetti
Scott Savage
Lou Costanza

Secretary and Alternate:

Mary Arcudi

Applicants and Representatives:

Attorney Joe Antonellis, Doug Hartnett, Attorney
Amanda Cox, Ron Tiberi, Grant Pickering,
Attorney Jim Valeriani, Mike Griffiths, Scott Dana,
Chris Goff, Attorney Constant Poholek,

Guests:

Michelle Bird, Colleen Stone, Lewis Family, Tim
Watson, Mary Bentley, Ricardo Lima

Chairman Hodgens opened the meeting by noting that the Town Hall is open for the public hearings. All are welcome to attend, but the health agent has recommending wearing masks and maintaining social distancing.

Mr. Hodgens indicated that the ZBA website has been updated with information and documents regarding the zoning application process. The regular updates are designed to make the zoning process more accessible to residents and applicants. Mr. Hodgens listed the information recently added: (1) recently adopted rules of procedure; (2) information on special permits; (3) special permit checklist; (4) accessory apartment checklist; (5) information on groundwater protection district; (6) information on advisory opinions; (7) information on signage; (8) information on storage trailers; (9) information on filing complaints about zoning; and (10) information about timelines.

Mr. Hodgens explained the background behind recent site plan review cases. He said that matters had been coming to the ZBA without site plan review before the Planning Board. The ZBA has deferred taking action on these applications in order to allow the Planning Board to conduct site plan review and issue reports to the ZBA. That process has now been taking place as it should. In some instances, site plan review has been completed and reports have been issued. Mr. Hodgens thanked the Planning Board for all of its diligent work on the site plan

reviews and reports. Mr. Hodgins said that he wanted to assure everyone that the process is working the way it is supposed to work.

Mr. Hodgins asked the applicants if anyone simply had a brief status report to their site plan review processes as he did not want to keep anyone needlessly waiting. Attorney Joe Antonellis, representing GFI at 75 Plain Street did have an update for the board since the peer review from Graves Engineering has just been completed. He reminded the board that this review includes the issue surrounding the ground water protection district, which is under the jurisdiction of the ZBA and the purpose for the special permit request. The report reviews the statement that Graves Engineering has no issue relative to compliance to section 17.6 (c) (6). With this background presented to the board, the applicant did agree to continue the hearing to January 19, 2022 at 7 pm to move forward to a decision. All ZBA members agreed to continue the hearing. Mr. Antonellis also mentioned that if any board member would like to visit the site at 75 Plain Street to contact him to arrange a time mutually agreed upon. Chairman Hodgins reported that members did express an interest in visiting the site, and he indicated that such a visit would not violate the Open Meeting Law, as no deliberation would occur at that time.

Continuation Hearing - Case # 5 -2021

The applicant, MACA Industries, LLC, is seeking a special permit for construction of a two-story marijuana cultivation facility at 2 Condon Way. The application was received on August 9, 2021, and the public hearing commenced on September 22, 2021, and was continued by agreement to October 20, November 15, and to December 15, 2021.

Engineer Ron Tiberi presented the board with the existing condition plans for the property located at the corner of Plain Street and Condon Way. It is a 70,000 square foot parcel with 4500 square feet of wetlands on the east side. Soil and septic system testings were done and the wetland areas are flagged. Security fence has been approved by the Police Department. The drainage plans were reviewed. Planning Board and Graves Engineering have approved the drainage. Landscaping plan will be augmented on the east side of the property.

Amanda Cox, Compliance Attorney for MACA, went through how MACA's operations are consistent with the town of Hopedale's economic plan. She shared the positive impact this business will have in Hopedale. Not only with the gross sale value, estimated in excess of \$500,000 a year, MACA community benefit payments \$5,000 a year will be earmarked to benefit the senior citizen transportation services. They will also be sending three police officers to be trained as drug recognition experts, a training expense requested by the police chief. They are currently a member of the Hopedale Opioid Task Force. MACA will use and partner with local vendors and equitable hiring. A partnership has been formed with New Hope, who offers services in our local area to citizens impacted by criminalization of marijuana in the past. This will include a new program to mentor and provide legal services up to \$50,000 for new clients who wish to get involved in cultivation businesses. MACA is also determined to reduce the impact on town resources such as water with high performing technology. MACA will be using 800 gallons a day (page 3 of supplemental submission). This is a greatly reduced number as they will be using 4000 gallons but only using 800 gallons of town water. The difference is a reclaiming process with a system that filtrates it through Commercial Reverse Osmosis. This also results in a lack of liquid waste. In the future, MACA will look into collecting rainwater to use and possibly installing solar panels. MACA is also committed to eliminating hazardous waste production by using organic soil and not using any chemical pesticides. Their grow process does not pour nutrients on their plants and flushing them to get rid of hazardous materials. MACA will install a Brome Composter for the leaves and stocks that breaks these materials down and are recycled. There is no residual THC. Once the material is at the point no longer usable, it is taken off the premises by a third party. Another benefit is reclaiming heat

with a Compost Drum Dragon that helps reclaim heat and turns it into radiant heat. This attaches to the composter. This is a closed loop as well. The Active Radiant Catalyst that breaks down organic compounds, controls the odor. It pulls the air through the charcoal filters with a high flow fan and eliminates the odor. This is a closed loop system so there are no odors vented outside. The odor is also controlled with the composter as that system scrubs the exhaust that comes out and returns back to the handlers along with passing through charcoal filters. Boston Environmental Corporation will be hired once the business is up and running to run odor testing.

Scott Savage questioned whether there would be an external air source needed for the energy efficiency requirements and a detailed discussion was held regarding flow of air.

Security, traffic impact and parking have all been addressed. The Planning Board draft decision was approved at its meeting (December 15, 2021). The business hours will be 7 am to 8 pm seven days a week. Lou Costanza inquired about the approval from the Fire Chief, and Amanda Cox reported that they have been working with both the Fire and Police Departments throughout the design of the cultivation business. Everything they both asked for are in the design plans. Mr. Hodgens stated that all departments have been notified of the public hearing, and the ZBA has not received any objections. Only the Water and Sewer Department has commented on water usage for these projects.

Public Comments

After soliciting public comments and receiving none, the Chairman entertained a discussion on which members of the ZBA would be voting on this special permit. Mr. Costanza was absent at the first hearing although he did watch the recording of the meeting, and this meeting was limited in details and scope of the project at that time. Nevertheless, Mr. Costanza recused himself from the vote and asked the alternate, Mary Arcudi, to take his place. Attorney Cox consented to the recusal of Mr. Costanza.

At this time Chairman Hodgens closed the public hearing.

Mr. Hodgens noted that there are many conditions included in the report of the Planning Board. Without encouraging members to vote for or against the application, Mr. Hodgens said that those conditions will be included as ZBA conditions should a special permit be approved. Mr. Hodgens also asked the board members to consider the following conditions (in addition to the Planning Board conditions) if a motion to approve was forthcoming:

1. hours of operation 7 a.m. to 8 p.m.
2. compliance with all plans and supplemental plans presented
3. special permit would be limited to 5 years
4. special permit would be limited to MACA (also noted by Planning Board)
5. compliance with signage requirements in zoning bylaws
6. water usage limit 1000 gallons a day
7. disposal as presented to make sure no discharge into the groundwater
8. partnership disclaimer as stated in the host agreement with Select Board
9. noise limits (also noted by Planning Board)
10. odor limits (also noted by Planning Board)
11. lighting must comply with zoning bylaws (also noted by Planning Board)
12. screening must comply with zoning bylaws (also noted by Planning Board)
13. process for complaints (also noted by Planning Board)
14. compliance with state law
15. compliance with host agreement

16. compliance with any order of conditions produced by the Conservation Commission

A brief discussion followed. Sandra Biagetti said that the conditions are “spot on.” Nicholas Alexander said that it must be made clear that signage must be approved. Scott Savage said that he is in favor of the list as read, but he wants to make clear that the 5-year limitation is not designed to harm the interests of investors in the business. Mary Arcudi questioned the liability issue in connection with the partnership disclaimer as well as the limitation on water usage. Mr. Hodgins indicated that the LLC status of MACA does not limit the liability of Hopedale, and the water limitation is essential. Mr. Hodgins said that he would not be inclined to vote in favor of the special permit without a water usage limitation. Mr. Hodgins then asked if the representatives of the applicant agreed to the water limitation. The representatives all expressed agreement. Mr. Hodgins then asked the representatives of the applicant if there were objections to any of the conditions that he had suggested. The representatives said they had no objections. Mr. Hodgins also asked about the conditions of the road. He said that he was not suggesting another condition, but he noted the absence of any sidewalks on the private road and asked the applicant to consider that issue going forward. Attorney Cox said they had not thought of that issue. Mary Arcudi made a motion to approve the special permit for construction of a two-story marijuana cultivation facility at 2 Condon Way with the conditions as outlined above.

Sandra Biagetti seconded the motion, and the roll call vote was as follows:

Sandra Biagetti	yes
Nick Alexander	yes
Scott Savage	yes
Mary Arcudi	yes
Chris Hodgins	yes

Motion passes unanimously in favor.

Continuation Hearing - Case # 3 -2021

On June 17, 2021, Lifted Genetics, LLC, and David Griffiths filed an application for a special permit to construct a two-story industrial building for cultivation of marijuana at 6 Condon Way. The public hearing commenced on July 28, 2021, and has been continued by agreement on September 15, October 20, November 15, and November 17, 2021.

Attorney Jim Valeriani, representative for Lifted Genetics updated the board with the approval of the draft decision from the Planning Board (December 15, 2021). The peer review from Graves Engineering was completed and approved and all minor changes were added to the site plan. The dumpsters were split and now are easy to move if need be. The hours of operation will be 7 am to 6 pm seven days a week. The traffic report had no impact to this area, and a quick review was presented regarding the odor, lighting plan, and water usage. After consulting with the Water and Sewer Manager, Tim Watson, it was determined that they would use up to 3000 gallons of water a day and not overload the public water system. Their system uses pure water and not recycled water. Attorney Valeriani stated that the applicant would be in agreement with a condition limiting water usage to 3000 gallons a day.

Mr. Hodgins was content with the fact that the hazardous material is not being discharged into the ground. Nick Alexander still had concerns regarding traffic and it was reported that there would only be an additional 20 people traveling in this area. He also had concerns with any possible external odor. This building will be a brand new construction and will be tight and

sealed. Scott Savage asked to review the specifications of the mechanical systems. The carbon filtration systems were reviewed; state of the art mechanical design will be implemented based on the building code.

Attorney Valeriani reviewed the Planning Board decision that states that if there are any complaints of odor, remediation must be completed within 5 days.

Mr. Hodgens asked about the hours of operation because there seemed to be a discrepancy between the hours stated and the hours approved by the Planning Board. Attorney Valeriani confirmed that the hours of operation would be 6 am to 8 pm as approved by the Planning Board.

Public Comments

There were no public comments.

Chairman Hodgens at this time closed the public hearing for 4-6 Condon Way. Mr. Hodgens reviewed his suggestions for conditions. He added that the purpose is to make sure that the operation of the facility is consistent with the plans and the application submitted. These suggested conditions included:

1. compliance with Planning Board conditions
2. hours of operation 6 a.m. to 8 p.m.
3. compliance with all plans and supplemental plans presented
4. special permit limited to Lifted Genetics, LLC and David Griffiths
5. special permit limited to 5 years
6. compliance with signage requirements of zoning bylaws
7. water usage limit 3200 gallons per day
8. disposal as presented to make sure no discharge into the groundwater
9. partnership disclaimer as stated in host agreement with Select Board
10. noise limits / complaints (also noted by Planning Board)
11. odor limits / complaints (also noted by Planning Board)
12. lighting must comply with zoning bylaws
13. screening must comply with zoning bylaws (also noted by Planning Board)
14. compliance with state law
15. compliance with host agreement

Mr. Hodgens asked the applicants if there was any issue with the Conservation Commission. Attorney Valeriani stated that the project is “outside the buffers” and will not involve the Conservation Commission.

Scott Savage made a motion to approve the special permit for new construction of a two-story industrial building for cultivation of marijuana at 6 Condon Way (lot 14) with the following conditions:

Sandra Biagetti seconded the motion and the roll call vote was as follows:

Sandra Biagetti	yes
Nick Alexander	yes
Scott Savage	yes
Lou Costanza	no, as the federal law considers marijuana an illegal substance
Chris Hodgens	yes

Mr. Hodgins declared 4 of 5 votes is sufficient for the motion to pass. Motion passes in favor of special permit with conditions.

Continuation of Public Hearing - Case # 6 -2021

The applicant, Green River Cannabis Company, Inc., is seeking a special permit for retail marijuana sales in an existing building located at 5 Condon Way, Unit 5E. The hearing notice was published in the Milford Daily News on October 27 and November 3, 2021. The posting at the Town Hall was done on October 20, 2021. The public hearing was heard on November 17, 2021 and continued to this hearing.

Constant Poholek, attorney for Green River Cannabis had previously submitted an unsigned copy of a site plan. Members inquired if there was an updated signed copy because the unsigned copy appeared to be a draft. Attorney Poholek submitted the signed site plan (appearing to be identical to the copy already submitted with the exception of the signatures). He stated that he spoke with the Town Administrator, Diana Schindler, who opined that this applicant did not need to go to the Planning Board for another site plan review on this property. The ZBA and the Planning Board agreed that site plan review is not required under the governing bylaws.

An interior floor plan was also provided. Mr. Poholek researched documentation regarding parking space allocation. A condominium association agreement with the tenants and the landlord never created one. Parking is considered “first come first serve” with the spots available. The applicant provided a letter of agreement with the tenant at 8 Condon Way to lease 6 parking spots for Green River Cannabis employees to use.

A lengthy discussion was held in between the applicant and the board regarding the required number of parking spaces for this location. Mr. Poholek stated that only 800 square feet of the location would be used for retail of the condominium’s 1500 square feet. Mr. Hodgins stated that it would not be logical to apportion parking spaces in the way being proposed. The use that predominates would dictate the number of spaces required. Mr. Hodgins referred to section 8 of the Hopedale Zoning By-Laws. This section pertains to off-street parking area requirements. The requirements are based upon the “use” of the property. A discussion followed as to the intensity of traffic and parking needs that would surround the “use” of a retail marijuana establishment. Mr. Hodgins offered Attorney Poholek the opportunity to do further research to determine what the current parking situation is for each tenant. Mr. Hodgins suggested that the applicant might be aided by the fact that not many spaces are needed from the other tenants. At this point, there is no way for the board to understand the current parking needs and the impact of future parking needs. All members agreed that there should be more information provided relative to crossing the road to another parking lot if the applicant intends to share spaces from other nearby tenants.

Lou Costanza made a motion to continue the hearing for Green River Cannabis to January 19, 2022 at 7 pm. The applicant was in agreement and Nick Alexander seconded the motion and all were in favor.

Approval of minutes was passed over to the next meeting.

Correspondence

Mr. Hodgins received an email from Town Counsel (Attorney Jonathan Silverstein) regarding an update on the High Hopes appeal of the ZBA decision, and it will be reviewed during a brief executive session to be held on January 19, 2022.

The ZBA also is in receipt of an application for a special permit from North East Great Dane, Inc. for 10 Tandem Way. This will be scheduled on a different date other than January 19th as that agenda is already full and will inform the board once the Chairman reviews the meeting calendar.

Nick Alexander made a motion to adjourn made, seconded by Sandra Biagetti, and unanimously approved.

Respectfully submitted,

Mary Arcudi
ZBA Secretary