



## TOWN OF HOPEDALE

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**Zoning Board**  
Chris Hodgens, Chair  
Lou Costanza  
Nick Alexander  
Sandra Biagetti  
Alternate: Mary Arcudi

### **Hopedale Zoning Board of Appeals Meeting July 21, 2021**

Chairman Christopher Hodgens called the public meeting to order on July 21, 2021 at 7:00 pm. Meeting was streamed live via Zoom and the public was invited on the posted agenda at the Town Hall and on the Town of Hopedale website. Recorded meeting can be found on the Town of Hopedale website under Meeting Videos.

Discussion to be held regarding the special permit issued to High Hopes, LLC, Russell Bogartz, and Jay Lum on October 21, 2020. On the date, the ZBA voted to issue a special permit for the operation of a retail marijuana establishment at 1 Menfi Way, Hopedale, MA. The vote of the ZBA also included conditions. Through a drafting oversight, the written special permit did not reflect the vote taken by the Zoning Board of Appeals. Specifically, the written special permit failed to include the condition limiting sales to inside the store. A vote will be taken to address this clerical oversight.

#### Members that were present

Chris Hodgens, Chair  
Sandra Biagetti  
Scott Savage  
Lou Costanza

#### Member that was absent:

Nick Alexander

#### Secretary and Alternate:

Mary Arcudi

#### Applicant and Representation:

Russell Bogartz and Jay Lum

#### Chief of Police:

Mark Giovanella

#### Audience Present via Zoom:

Marion Miller, Ryan Smith

#### Meeting Details

Chairman Chris Hodgens opened the meeting with a chronology of events leading to the granting of a special permit for marijuana retail sales for High Hopes, LLC that started on October 21, 2020. The hearing and meeting were video recorded on [townhallstreams.com](http://townhallstreams.com) between the time markers 55:50 and 1:38:32 and the applicants Russell Bogartz and Jay Lum were present. Police Chief Mark Giovanella attended the hearing on October 21, and expressed public safety concerns about proposed sales of marijuana in the parking lot.

The ZBA motion and vote included the following conditions: compliance with the host agreement, compliance with state law, compliance with licensing, surveillance cameras 24/7, limit sales to "in-store sales only," and limit business hours from 10 am to 9 pm. This motion passed favorably.

On October 26, 2020, Chairman Stephen Gallagher filed the decision with the Town Clerk and through a clerical error, the written decision neglected to include the condition regarding “in-store sales only.”

The ZBA became aware of this error on July 16, 2021 after being forwarded an email by Russell Bogartz who expressed intent to commence marijuana sales in the parking lot. The ZBA immediately scheduled a public meeting for July 21, 2021 to address the clerical error. Massachusetts’s appellate courts have addressed situations such as this where a condition approved by a vote is not recorded in the written special permit. The ZBA has “inherent administrative power” to amend decisions as in the case of *Dion v. Board of Appeals of Waltham*, 344 Mass. 547, 553 (1982). The law “does not preclude a public board from showing that a clerical error was made or from correcting it”. *Board of Selectmen of Stockbridge v. Monument Inn, Inc.*, 14 Mass. App Ct. 957, 958 (1982).

Cannabis Control Commission regulations do not mandate curbside sales. The regulations authorize these sales so long as they are consistent with local regulations.

A discussion was held and the ZBA members voiced their affirmation of the vote and motion that was made on October 21, 2020. Russell Bogartz stated that his company was requesting curbside sales at the investor’s wishes.

Scott Savage made a motion to amend the written ZBA decision of October 21, 2020, filed on October 26, 2020, to include the condition limiting sales to “in store sales only” for High Hopes, LLC at 1 Menfi Way. Sandra Biagetti seconded the motion and the vote was as follows:

Sandra Biagetti	yes
Scott Savage	yes
Lou Costanza	yes
Mary Arcudi	yes
Chris Hodgins	yes

The amended decision will be filed with the Town Clerk and then mailed to the applicant.

Lou Costanza made a motion to adjourn seconded by Sandra Biagetti and all were in favor.

Respectfully submitted,

Mary Arcudi  
ZBA Secretary