Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
October 17, 2019

Members present:
Donald Foster, Chair; David Curtis, Vice-Chair; James Gouveia, Member; Gerry Noble, Associate Member

Members absent:
John Olivieri, Jr., Clerk; Janice Swanson, Vice-Clerk; Chris Carmichael, Associate Member; Daniel Gillis, Associate Member; Joseph Urbanski, Associate Member

Regular Meeting:
Mr. Foster opened the regular meeting at 7:14 p.m. He then stated he was required, in accordance with the Open Meeting Law, to announce that he and the secretary were making an audio recording of the meeting. LakeCAM was making a video recording. He asked if anyone present was making a recording. There was no response.

Mr. Foster advised they had four hearings tonight. He explained that the Zoning Board normally has five voting members. Although they now have five regular members and four associate members, in order for any of their votes to carry they need a super majority for a decision of at least four out of the five members. Mr. Foster said when they only have four members available to vote it means all the votes have to be in favor for the motion to carry.

Mr. Foster said the other issue is because they have two hearings that were continued from last month the members that are voting on a decision must have heard the first part of the hearing. That would be only himself, Mr. Curtis, and Mr. Noble. Mr. Gouveia was not at last month’s meeting meaning, at the moment, they could not continue those two hearings unless another member who attended last month came in late. Tonight, he would like to start with the two hearings that they may possibly be able to consider and if they don’t get enough members then the two hearings that are continued will have to be continued until next month. He apologized for this inconvenience.

Thomas hearing – 20 Main Street
Mr. Foster opened the Thomas hearing at 7:17 and read the legal ad into the record. He advised before they move ahead he wanted Ms. Thomas to acknowledge that she would
like to move ahead tonight understanding she would need a unanimous vote from the Board for a favorable decision. If she did not want to take that chance, with her permission, they will continue the hearing. Ms. Thomas replied the owner was present tonight so she would like to move forward with the hearing.

Mr. Foster said the property is used as a residence but it is zoned business. Ms. Thomas wants to now use it as a business. Ms. Thomas stated that because the lot is non-conforming her attorney advised her to file for a Special Permit as a formality. Mr. Foster said that is partly correct but there are some issues. Since it was used as a residence in the business zone, they did want to take a look at the setbacks. In a residential zone, the side and rear setbacks are 20 feet. In a business zone, that would be 40 feet. A property that has been used as residential may conform to the residential bylaw but it may not conform to the business bylaw which requires a greater distance. He did not see those dimensions on the plot plan. He raised the issue because normally they require those dimensions to be presented on the engineered drawing. Ms. Thomas asked if she would have to ask the engineer add them.

Mr. Foster said the other issue is that in a business zone once it is converted to a business use then it cannot go back to residential use. He stated that if they were to grant this petition tonight, they would probably put a restriction on the deed that it shall remain business and not revert to residential use. Ms. Thomas thought she would like to continue and return with her attorney. Mr. Foster said it would be worthwhile as she could then have her engineer amend the drawing to include the side and front setback. He also asked for clarification regarding the new septic system. Ms. Thomas replied she would be installing the system after she purchased the property based on the approved plan.

Mr. Foster then read the correspondence from various Town Boards into the record. The October 11, 2019, letter from the Conservation Commission stated there were no wetlands on or near the property. In its October 16, 2019, memo the Planning Board stated it had no comment on the petition. The Board of Health, in its October 16, 2019, memo, indicated the proposed property required further action for the Change in Use status and had followed up with the applicant’s engineer. The property has an approved septic design that meets the required gallons per day for the proposed office space use.

Mr. Foster stated the following issues that needed to be addressed at the next meeting:
- Updating the engineered dimensioned drawings.
- A plan for parking that includes employee parking, customer parking, and handicapped parking.

Mr. Curtis then made a motion, seconded by Mr. Gouveia, to continue the Thomas hearing to November 21, 2019. The time would be 7:00 p.m. The vote was unanimous for.

The hearing closed at 7:28.
Documents distributed for the hearing:
Petition packet
Legal ad
Board of Health correspondence of October 16, 2019
Conservation Commission correspondence of October 11, 2019
Planning Board correspondence of October 16, 2019

**Needham hearing – 6 Plymouth Street**

Mr. Foster opened the Needham hearing at 7:29 and read the legal ad into the record. Mr. Needham submitted a letter from his neighbor in support of the proposed project. Mr. Foster asked Mr. Needham if he had heard his statement regarding only having four members. Mr. Needham said that he had. He asked if they could do the hearing this month and vote next month. Mr. Foster replied they could do that but that fifth member could not vote as he had not been attendance for the hearing. Mr. Needham said he understood and would, therefore, like to continue until next month.

Mr. Curtis then made a motion, seconded by Mr. Noble, to continue the Needham hearing to November 21, 2019. The time would be 7:00 p.m. The vote was **unanimous for**.

The hearing closed at 7:31.

**Fess hearing - continued – 12 Dunbar Road**

The Fess’s advised they had made the changes that had been requested at the last meeting. They questioned if they could at least present that now. Mr. Foster recommended they wait until next month. They then requested to continue their hearing.

Mr. Curtis made a motion, seconded by Mr. Noble, to continue the Fess hearing to November 21, 2019. The time would be 7:00 p.m. The vote was **unanimous for**.

The hearing closed at 7:32.

**Munro Associates, LLC hearing- continued - 310 Kenneth W. Welch Drive**

Mr. Foster opened the continued Munro Associates, LLC hearing at 7:46. Mr. Botelho said he would make the same request to continue. Mr. Foster asked if he had information for them according to the concerns that were discussed last month. Mr. Botelho said he did have an update but he did not think too much would change between now and November.

Mr. Noble asked procedurally if it was possible to get Mr. Gouveia up to speed on the continued petitions so he could vote next month. Mr. Foster replied Mr. Gouveia could
get a copy of the minutes or watch the video from last month. He thought that would satisfy the requirements.

Mr. Botelho asked because he was here tonight, and did have information, was it worth having that discussion but postponing the vote. Mr. Foster responded if you present more information and then next month there are additional members, they would not have heard what was presented. Mr. Botelho said that he could then reiterate it. Mr. Foster said that he would like to just have the update so when they meet next month, he could bring them up to date on what he’s learned based on the comments and concerns raised last month. Mr. Botelho said the reason he asked the question is although he thinks he is well prepared with as much information as he could have, if he presented it and received additional feedback from the Board, he would have that now instead of having to wait until the November 21st meeting.

Mr. Foster said he did not think it would be a problem presenting what Mr. Botelho had now as long as he was prepared to present once again at the next meeting. He did feel, to be legal, his continued hearing should be held next month with the vote to be next month as well. Mr. Gouveia had asked for clarification of the type of marijuana establishment that was requesting a permit. Mr. Botelho replied they are an adult retail dispensary. They will have edibles, oils, flower and the different varieties of the way the product comes, and some accessories.

Mr. Botelho started to give a brief update on what they discussed last month. He advised they went through the whole application and answered all the questions related to it. Most of the discussion was centered on the number of parking spaces and the shape of the lot. Mr. Botelho then displayed the Site Plan. Mr. Foster said that he did drive down to the site, looked at the lot, and drove around the circle. He felt it would be tight. Mr. Botelho indicated on the plan where the lot was and advised it was drawn out with twenty spaces. He also showed the Board the part of the building they would be occupying. Per their lease, they have all rights to that parking but nothing else on the property.

Mr. Botelho stated that he had spoken with the owner of the building and explained the situation that they were in. He brought up not only the number of spaces but why the lot was configured that way. The answer that he had gotten was that it was more aesthetically pleasing. A flag pole is planned for in the middle and even though it is circular, if the spots are angled, everyone will go in one direction. He also asked about the impervious coverage on the lot because they would like to either expand or reconfigure the lot. He did not have an official answer yet but has reached out to the civil engineers. They did think they were now pretty close to the maximum coverage allowed. Mr. Foster recommended checking with the Building Commissioner. The Site Plan indicated the coverage was at 70% which was the maximum allowed by the bylaw and included the density bonus.

Mr. Foster said it was his recollection that the parking concern was raised because of what other people have seen at similar businesses when they have opened. However, after the business gets going, the traffic is reduced to a regular level. He thought the
concern had been how all the customers that come in could be handled during those initial months. Mr. Botelho said that was correct and includes the initial opening as well as peak hours. He said that Nature's Remedy, which is a cultivation facility in that same building, recently opened a retail dispensary in Millbury. Their parking lot has 42 spaces and the Town has made them have appointment only for the first month of operation. Initially, they opened up a certain amount of appointments for the first week and then they opened up an additional amount, thereafter. It has worked well and although they are still scheduling appointments, they have an excess amount of appointments that are available. According to Mr. Brady, even though they have 42 parking spaces, they usually only fill about 20. Mr. Botelho said that last month he had quoted them a time of 15 minutes for a complete transaction and that was an accurate number. Overall, they still feel that 20 spaces will be a comfortable number.

Mr. Noble asked what the square footage of the Millbury site was. Mr. Botelho was unsure but noted that it was a much larger stand-alone building. He advised the owner of Cold Storage was completely committed to helping them get more parking on site and/or leasing them as many spots as they need at other facilities located on Kenneth W. Welch Drive. He is also working on getting an estimate to purchase a shuttle bus and insurance quotes for that. Mr. Foster said he recalled last month they had discussed the long line of parking spaces that are adjacent to his building but are reserved for Nature's Remedy. Mr. Botelho said that was correct. He spoke to Mr. Brady who said Nature's Remedy will have 50+ employees. They cannot use any of the spaces because the Special Permit that had been granted to them was inclusive of those spaces. If those spaces are used for anything else, Mr. Brady might be in violation of his Special Permit. Mr. Gouveia wondered if they could be leased on a temporary basis.

Mr. Foster said that it would be nice to find a solution to the short term, grand opening onslaught, if there is one. Mr. Botelho said if they were to look at all the dispensaries that are opening; every city and town has the same concern. They don't want to see what happened in the earlier opening locations to happen here. That is why they try to mitigate that by having appointment only at least for the first couple of weeks. Then there will be discussions between the owners and the Police Department about if that contingency can be relaxed.

Mr. Foster asked if there was any other information that Mr. Botelho would like to convey tonight for Mr. Gouveia's benefit besides the parking. Mr. Botelho did not think so and thought that everything else had been resolved. Mr. Foster suggested they stop here and meet again next month. If there wasn't anything else, they could move forward with a vote for continuation. Mr. Noble asked if options had been explored to reconfigure the parking lot. Mr. Botelho replied that he had reached out to Mr. Bissonnette of Zenith Consulting who was supposed to get back to him to advise if they had any other options.

Mr. Curtis then made a motion, seconded by Mr. Noble, to continue the Munro Associates, LLC hearing to November 21, 2019. The time would be 7:00 p.m. The vote was unanimous for.
The hearing closed at 8:03.

Mr. Foster adjourned the meeting at 8:03.