

**Zoning Board of Appeals  
Lakeville, Massachusetts  
Minutes of Meeting  
January 16, 2020**

**Members present:**

Donald Foster, Chair; David Curtis, Vice-Chair; John Olivieri, Jr., Clerk; James Gouveia, Member; Joseph Urbanski, Associate Member

Atty. Katherine Laughman, Town Counsel was also present

**Members absent:**

Janice Swanson, Vice-Clerk; Chris Carmichael, Associate Member; Daniel Gillis, Associate Member; Gerry Noble, Associate Member

**Regular Meeting:**

Mr. Foster opened the regular meeting at 7:02 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.

**Ferreira hearing – 1 Patrick Thomas Court**

Mr. Foster opened the Ferreira hearing at 7:03 and read the legal ad into the record. Mr. Ferreira advised he would like to build a 28' x 40' garage. He noted the lot had a unique configuration as technically the side is the front of his property because of the frontage on Patrick Thomas. He is asking for 20 feet. There is no impact to any neighbor; the closest would be the dog kennel. If he goes back too much further, it goes to his leaching field. He is presently more than ten feet away from it which is required by the Board of Health.

Mr. Foster said he had requested Mr. Ferreira bring in the measurement showing how close the existing dwelling is to that same property line. Mr. Ferreira replied it was 17 feet. Mr. Foster then read the correspondence from various Town Boards into the record. The December 19, 2019, letter from the Board of Health stated they would require the new garage to be 10 feet from the leaching field or a Variance would be needed. Mr. Foster noted the January 13, 2020, memo from the Conservation Commission stated there were no wetlands in the area of the proposed construction. The January 9, 2020, memo from the Planning Board had no comment regarding the petition.

Mr. Foster asked if any significant paving was planned. Mr. Ferreira replied he was not planning on adding additional pavement. Mr. Foster stated that because the house is seventeen feet from that property line that in essence defines a new setback for that one property line. The proposed garage is greater than seventeen feet away so he felt that Mr. Ferreira met the requirement. Mr. Foster asked what Board members thought. Members agreed. He then asked if anyone present would like to speak for or against the petition. No one spoke.

Mr. Ferreira then noted that he had asked for twenty feet but could he move it to seventeen feet if this was approved. Mr. Foster replied the further he was from the property line, the less non-conforming he was. If he was willing to leave it at twenty, they would prefer that option. Mr. Olivieri asked why he would want to move it now. Mr. Ferreira replied it would just give him a little more distance from the leaching field.

Mr. Olivieri then made the motion, seconded by Mr. Curtis, to approve the Special Permit. The setback may be reduced but no less than seventeen feet, in order to meet Board of Health requirements. The **vote was unanimous for.**

Mr. Foster explained the timing of the filings, the appeal period, etc.

The hearing closed at 7:12.

**Documents distributed for the hearing:**

Petition packet

Legal ad

Board of Health Correspondence of December 19, 2019

Conservation Commission correspondence of January 13, 2020

Planning Board correspondence of January 13, 2020

**Twisted Growers, LLC hearing, continued – 415 Millennium Circle**

Mr. Foster opened the continued Twisted Growers, LLC hearing at 7:13. In attendance were the following: Brian Salisbury, attorney; Jamie Bissonnette, engineer from Zenith Consulting Engineers; Scott Baker from Griffin Greenhouse, odor control, Mitch Suzan from ECM Security, Derek Stucki, an odor control specialist, and Dominick Demartino and Dennis Karjanis, founders and owners of Twisted Growers.

Atty. Salisbury advised he had a list of items that the Board had wanted to address. The following were items to discuss: odor mitigation, the water and the amount of usage, electricity and the backup power system, and security. They would begin with odor mitigation. Mr. Baker then addressed the Board. He stated his company was based out of Tewksbury, MA. He has a specialized team that designs and builds medical marijuana grow facilities. The trend now leans toward Controlled Environmental Agriculture (CEA) which is specific to growing medical and food crops under cover.

Mr. Baker stated their grow facilities are multi-faceted, and their grow rooms are independent labs. The term used is box in a box. These units are self-contained. The air flow is continuous and does not leave the pod or building. They are concerned with any airborne microorganisms such as bacteria, pathogens, pollutants, and odors. Their pods typically run between 1,200 and 1,400 square feet and always include a carbon filter. He then distributed some pictures and explained what they were. The first was a cure room where the cannabis is dried. They use two pieces of equipment. The one in the background is a carbon filter which is full of activated carbon. That filter needs to be replaced at least once a year. They recommend every six months. Next to that is a machine that is called the photox. It is used primarily to eliminate all pathogens. It is also a backup for odor control. The carbon filter in the background, according to the manufacturer, is 99.9% effective in eliminating odors. Mr. Baker was confident they do control the odor in the pods.

Mr. Baker said that the challenge is when the door is open for access by the grower. When the plants are in full flower, they are producing a stronger smell. The photox can only act so quickly so there might be a little bit of leakage that goes out into their ambient air. Typically, they run at negative pressure and the HVAC system itself is creating that pressure because it is constantly running and circulating the air in the room. It is a self-contained system. There is no pressure that is brought in and no air that is exchanged.

In the ambient air spaces, like the hallways, you have some of that leakage so there is some odor in the hallways. Mr. Stucki would be explaining how they handle that. The most challenging area is the extraction labs. The carbon filter and photox are used but struggle to keep up because of the concentration of the extraction. They usually run a specific vent from the extraction lab to the roof of the building and then elevate the discharge anywhere from ten to twenty feet to get it higher in the atmosphere. They use a merv-13 filter. They use them so nothing escapes the building and most importantly they are bringing in fresh air. They are not bringing in any possible pollutants, carbon monoxide, pollen, or anything that might possibly contaminate their crop, so they are filtering both ways.

Mr. Baker advised his team spends a lot of time going to facilities that have been built for a year or two, that they did not build. They do a lot of problem solving and odor mitigation has risen to the top. They are well prepared for it and now have a plan in place. Mr. Baker asked if there were any questions. There were none.

Mr. Derek Stucki then addressed the Board. He stated that odors that do escape cannabis facilities are problematic. He has done a lot of work this past year and odor is increasingly becoming a hot topic. What they bring to the table with *Cannabusters* is oxidative odor elimination. They have an extensive background in trash, landfills, transfer stations, sewer treatment, etc. He asked if he could approach the Board and do a demonstration.

Mr. Stucki explained the active ingredient in oxidative odor elimination is organic molecule by molecule oxidizers. It is also extremely safe. He sprayed ammonia on a

sample sheet which Board members could smell. He sprayed *Cannabusters* and repeated until Board members could no longer smell the ammonia. He then sprayed it into his mouth to display its safety. He advised the Board one of the ingredients is iodine-2. It oxidizes everything organic, molecule by molecule, on contact. He noted that when the air gets to the roof, by misting their product with high pressure water into the airstream, they can achieve 100% odor elimination.

Mr. Foster asked what the consumption of this would be on a daily, monthly, or yearly basis. Mr. Stucki replied it would depend on how many nozzles they would need to treat the air effectively and would vary based on the size of the facility. He asked if there were any additional questions. There were none.

Mr. Mitch Suzan from ECM Security then spoke. He advised the Board he has been hired by Twisted Growers to provide security for this facility. He presently provides security for two cultivation sites and four dispensaries. He hires mainly retired law enforcement, veterans, and off duty fire fighters. He noted that the Cannabis Control Commission (CCC) requires that security be on site anytime there is anyone in the building. They would be there a half hour before operations start and approximately a half hour after operations end. Right now, they plan on only a day shift with two guards on duty. They are responsible for making sure they are in compliance with the CCC. Their security plan has been submitted to Chief Perkins. Mr. Foster said they had not received any correspondence from the Chief. He asked if there were any questions. There were none.

Mr. Jamie Bissonnette from Zenith Consulting Engineers was present to discuss water usage. He advised he had spoken with Mr. Cathal O'Brien, the Water Supervisor of Taunton Water. Mr. Bissonnette presented an email which Mr. Foster read into the record. It confirmed Taunton could supply a demand of 2,000 gallons per day to 415 Millennium Circle. Mr. Foster asked if 2,000 gallons was the expected maximum or if there was a safety margin built in. Mr. Bissonnette replied the expected usage is anticipated to be 1,500 to 1,800 gallons.

The last issue to discuss was the electrical component for the backup power. Mr. Demartino advised they have already purchased a unit. He submitted a copy of the specs for the record. The electrical load for the building is 1500 amps and this machine will be able to run one third of the building. The primary intention of the machine is not to run the entire building but security, cameras, lighting, etc. Mr. Gouveia asked how long before the machine would kick in. Mr. Demartino said when power is shut off the machine will automatically read that and turn power over. These automatic transfer switches are an expensive component so no one manually will be responsible for turning it on.

Atty. Laughman noted that one of the items required in the by-law is emergency procedures, including a disaster plan and if that has received a safety review. Did they need further input regarding that? Mr. Foster said the Police Chief had seen the plan but was unsure if the Fire Chief had checked on it. He felt those were good things to ask for.

Mr. Suzan replied getting a fire system in there and having a fire company monitor it would be part of the building process, which would be required. Atty. Laughman said that it would be more like having a disaster plan in case of a fire emergency and if the Fire Department had reviewed those contingencies and approved them. Mr. Demartino said part of the Certificate of Occupancy process would be having a sign off from the Building Commissioner, Fire Chief, Board of Health etc. This facility will have extensive burglar alarms and fire alarms and typically the Fire Department is the last to sign off. They could be confident that all the requirements will be met.

Mr. Foster asked if they could consider issuing an approval of their plan pending the review by the Fire Chief. Atty. Laughman said they could. Mr. Demartino was fine with that condition. Atty. Laughman noted they had a conversation regarding renewable energy, energy efficiency, and energy conservation plans which were the other elements of the application. Was the Board satisfied those interests had been addressed? Mr. Demartino responded they had met with a company that is using pro-generation along with the ability to run heating, air conditioning, and dehumidifiers with a system that is very energy efficient. They believe by using this company they could cut their power costs in half and reduce their footprint.

Mr. Foster asked for an explanation of cogeneration. Mr. Baker said his team is constantly looking at energy consumption. They don't recommend using the high-pressure sodium which is most commonly found in grow facilities. The energy consumption for an indoor build versus a greenhouse can be 80% higher as they use a lot of lights in these pods. They use LED technology which can cut the electric consumption by 30 to 40%. Regarding the HVAC system, 'dessert aire' is an air conditioner, a heating unit, and a dehumidification piece of equipment. It uses very little energy and is driven by water, either generally a water chiller or a water cooler. They strive for using the least amount of energy.

Mr. Foster said the question was to explain how they use co-generation in a facility like this. Mr. Demartino replied it is a product you can run with natural gas. Mr. Foster said co-generation implies they are going to generate their own power. Mr. Demartino said that was correct, and they were going to do it with natural gas. The engineers have looked at the information that has been laid out to them by Griffin and they are using 1.5 megs which they think they can get down to under a meg and that is through using co-generation and firing off of natural gas. Mr. Foster asked if he had a sense of their savings from this co-generation process that would compare to a more standard approach. Mr. Demartino replied the savings could be as much as 40%.

Atty. Laughman said that would be all the issues that she had outstanding, except for the noise. She believed there had not been much of a concern because of the location. Mr. Foster asked if there was anyone present that had any questions or concerns regarding the application. No one spoke. He then asked Board members what they would like to do. Were they in a position to vote to either deny or approve? Atty. Laughman recommended they go through the Special Permit criteria and make their findings in respect of that. There are conditions generally outlined in the by-law which would apply

to most applicants. They might want to look through each of them and determine if there is anything in any of the categories they want to add for this particular establishment. Board members asked Atty. Laughman to walk them through the by-law.

Atty. Laughman stated the first one is hours of operation but because this is a cultivation facility, it is less applicable. The hours in the by-law are 8:00 a.m. to 6:00 p.m. The next one would be odors and that the facility will not generate outside odors. That is the general condition but they might want to make something more specific. Atty. Laughman recommended making a finding that said the Board was comfortable with the odor system that is proposed and presented but the condition that is going to be imposed is there shall not be the generation of outdoor odors. If for some reason these systems are not capable of managing that, it would need to be addressed.

Atty. Laughman continued the third condition is the security plan and emergency procedures shall be approved by the Police Chief and Fire Chief prior to commencing operations. There is a condition that they are required, on an annual basis, to certify to the Police Chief and Fire Chief that there are no changes to the security plan and emergency procedures. When questioned, Atty. Laughman advised that these were the conditions that apply under the bylaw and they are generally incorporated into the decision but if there was any reason the Board would like to elaborate or further condition based on this particular operation, now would be their opportunity to add to it or change it. Atty. Salisbury noted the license is still pending before the CCC, and there is still considerable lead time in getting the building properly situated. He would suggest the annual review be based on the time of the issuance of the occupancy permit. Mr. Olivieri recommended the time be at the discretion of the Police and Fire Chief, the entities involved. Atty. Laughman said the Board could designate the Zoning Enforcement Officer to be the person that makes that happen and any certifications be copied to the Building Commissioner so he could keep track of them. Mr. Foster said that seemed reasonable.

The next item that was discussed was how the Special Permit will not take effect until the applicant has obtained all final license approvals or final certificates of registration from the CCC. Atty. Laughman said they might want to clarify if they can obtain a building permit in order to start building out the facility. Mr. Demartino said he understood he would be building at this own risk. Atty. Laughman continued that the Special Permit shall have a term limited to the duration of the applicant's ownership and use of the premises for the approved marijuana use. The permit can only be transferred with the approval of the Zoning Board of Appeals in the form of an amendment to the Special Permit. Mr. Foster wanted to make sure the applicant was agreeable to that. Atty. Salisbury replied that condition was expected. Atty. Laughman said that the permit shall also lapse upon the expiration or termination of the applicant's license by the CCC.

Atty. Laughman noted that those were all the conditions of the bylaw. If the Board wanted to condition this in any other way, now was the opportunity to discuss that. Mr. Foster asked if there were things that they should be considering that they haven't. She replied that she thought they had addressed a lot of these issues at least in concept in

terms of odor, water, electrical usage, etc. She didn't know if they needed to impose any additional conditions in respect to odor to ensure that there is on-site containment of odor. Regarding energy and water usage, some communities have imposed conditions in those areas, otherwise it is open for discussion, and encouragement for there to be best practices without taking the extra step of imposing specific conditions.

Mr. Foster stated that he is comfortable with what was said in regard to odor. He was not sure how you can measure odor and how to know when they were out of compliance. Atty. Laughman replied if the condition is odor must be controlled on site, and you are receiving complaints from people off-site that they can detect it. It was noted that would be subjective for each person. Ms. Rita Garbitt then asked how the issue of odor had been handled with the Permit for Nature's Remedy. Atty. Laughman replied that she recalled that it had been the Building Inspector who had been designated as the individual who would make the judgement call as to whether or not there was a violation. Mr. Olivieri suggested that it be consistent with how it had been handled before.

Atty. Laughman then advised that under 7.4 there are findings that the Board typically has to make for a Special Permit. She encouraged the Board to discuss the facts of this application that support a finding that the use is not noxious, harmful, or hazardous. Mr. Foster felt they had touched on that both last month and this month. In his opinion, the question of socially and economically desirable, in this specific topic, is up to judgement and certainly conforms with the current trend in the laws and conforms to the desirability of many people in the public.

Mr. Foster then discussed if the advantages of the proposed use outweighed any detrimental effects but they could not know what would go there if the Special Permit was denied. Mr. Olivieri noted they had some of the neighbors present last month and he thought if it was going to be a real detriment, they would have heard from them. They did have some questions but had seemed to be supportive. There is also no one present tonight to speak against it. Atty. Salisbury added they he would suggest the current existing use is more impactful than this will be.

Mr. Foster read 7.4.1.3 which was the applicant has no reasonable alternative available to accomplish this purpose in a manner more compatible with the character of the immediate neighborhood. He felt this was an industrial use and many layers of protection had been installed for this use. Was there any discussion from Board members? Mr. Urbanski said there had been no discussion concerning the use of chemicals, fertilizers, and what would happen if something went wrong with those materials.

Mr. Baker replied because cannabis is a medical/food crop there are no pesticides they can currently use on the crop. For their insect control, they use predatory insects. They use all biologicals for crop protection, whether that be a fungicide, or an insecticide. On the fertilizer side of this, they do not use ammonium nitrate, but use blended fertilizers that are well documented and commonly used in greenhouses. Mr. Baker continued when they water and irrigate the plants, they do not have any runoff. They do what is

called micro-irrigation and pulse feed the plants. There is no waste of water or fertilizer. He noted also that after harvest the crop must go to a State certified lab where diagnostics are used to look for heavy metals, mold, or any other contaminant. If there is a failure, the crop must be destroyed or it has to go to extraction for the oils. In that process, the mold can be eliminated. As the CCC process is so strict, they cannot afford to make any mistakes so there is no chemistry being used.

Ms. Garbitt asked about the process of the outside disposal of any product. Mr. Baker responded the CCC requires that all waste has to be chopped up into small pieces and it has to go to a composting center. They are not allowed to put any material into dumpsters. All non-use cannabis parts are ground up and many facilities try to find a farm that can compost it, because they do not want it put into the waste stream. The CCC wants that removed weekly. Mr. Suzan added it will go into a dumpster under lock and key. The key will be with security and the dumpster monitored. Mr. Olivieri asked if there is any odor. Mr. Baker said there is not. The root system and stalk have no fragrance of any kind. Mr. Foster asked if there was any history of security problems with people trying to break into these dumpsters. Mr. Suzan replied there had not been any such issues.

Atty. Laughman noted that the CCC does regulate that process quite vigorously. She then read through some of the conditions from the Nature's Remedy Special Permit decision for the Board's information.

Mr. Curtis then made the motion, seconded by Mr. Olivieri, to grant a Special Permit to the applicant for a cannabis cultivation facility for adult use marijuana. The conditions of the bylaw will be incorporated with the modifications as discussed by the Board. Mr. Foster stated this list of conditions which the petitioner has agreed to will be attached. The **vote** was **unanimous for**.

Mr. Olivieri made a motion, seconded by Mr. Curtis, to close the hearing. The **vote** was **unanimous for**.

The hearing closed at 8:20.

The last item discussed was the draft application and checklist for marijuana uses. Atty. Laughman and Ms. Murray clarified originally this had been drafted for the Planning Board when they had been the Special Permit Granting Authority (SPGA). Since, that time it had been modified to reflect the change to the Zoning Board as the SPGA and simplified to make it more user friendly.

Mr. Olivieri made a motion, seconded by Mr. Urbanski, to approve the Special Permit application draft for marijuana uses. The **vote** was **unanimous for**.

Ms. Murray also noted that next month the Betts would appear in front of the Board. Members briefly discussed the case. The Betts had received a Special Permit and Variance in a prior decision from the Board that had been appealed. Atty. Laughman



advised the Court had upheld the Special Permit but the Variance had been overturned. The reapplication states the project does not require a Variance. That is the question the Board will have to decide and make a finding on. Ms. Murray clarified it would then be advertised as a modification to the original decision. Atty. Laughman said that was correct.

Mr. Foster then adjourned the meeting at 8:30.