

**Zoning Board of Appeals  
Lakeville, Massachusetts  
Minutes of Meeting  
March 18, 2021  
Remote meeting**

On March 18, 2021, the Zoning Board held a remote meeting. It was called to order by Chairman Olivieri at 7:00 p.m. LakeCam was recording, and it was streaming on Facebook Live.

**Members present:**

John Olivieri, Jr., Chair; Jeffrey Youngquist, Vice-Chair; Nora Cline, Clerk; Chris Carmichael, Member; Christopher Campeau, Associate; Christopher Sheedy, Associate

**Others present:**

Atty. Amy Kwesell, Town Counsel; Edward Phipps, applicant, Atty. Brandon Kurtzman, Tony Capachietti from Hayes Engineering, Keith Bettencourt, Architect, Karl Vrana, Nathan Langlais

**Agenda item #1**

Mr. Olivieri read this item into the record. It was an explanation of the Governor's Order Suspending Certain Provisions of the Open Meeting Law related to the 2020 novel Coronavirus outbreak emergency, which was why the Board was meeting remotely.

**Boston Botanical, Inc. hearing, continued – 475 Kenneth W. Welch Drive**

Mr. Olivieri opened the continued Boston Botanical, Inc. hearing at 7:00. Mr. Olivieri said he wanted to confirm two pieces of information the Board had requested, and that was in regards to the Police Chief and Fire Chief's input. They should have received some information that the Police do not make any specific comments, but defer to the Cannabis Control Commission (CCC) to review any security claims. They have confidence that the CCC's outlook ensures that the site is secure and meets all the regulations. In regards to the Fire Chief, there was a memo in their material, and all his concerns have been met.

Mr. Olivieri noted that they had also received from Boston Botanical additional information where they addressed all of their concerns. Atty. Brandon Kurtzman was present. He advised the following concerns that had been brought up:

- The backup generator and where it would be located.
- Updating the parking
- Indoor composting
- Noise mitigation from the rooftop units
- Weekend deliveries

He then shared his screen with the plan that was submitted with the additional packet. Regarding the backup generator, there is a proposed generator pad that has been added to the plan in the back part of the parking lot. They have attached some proposed generator specs. They still need some engineering to figure out exactly the type of generator that is going to go in, which is based on the wattage and anticipated demand of the facility.

The next item was the clarification of parking. Going back to the plan, there are 26 spots with 2 accessible spots. With 30 employees and no more than 22 at any given time at the facility, there is ample parking for the employees to avoid any type of congestion. This is not a public facility so the only people that will be coming and going are the employees, as well as authorized visitors and vendors. Atty. Kurtzman said the third issue was the HVAC equipment that was going on the roof and the concerns about the noise. They submitted some samples of the type of screening that they will use to mitigate that issue, which he then displayed.

Atty. Kurtzman continued regarding the access road which had been discussed at length, the Fire Chief has indicated that he is okay with that road. It has not changed from the last meeting. They also clarified the composting item and described the process in further detail on the narrative submitted. It would only occur indoors. There will be no outdoor composting. The final item was the traffic issue and potential weekend deliveries. They would do everything in their power to limit deliveries on any weekend day. If it was unavoidable, they would minimize their occurrence.

Atty. Kurtzman said he believed this comprehensively addressed all of the Board's issues. He asked if there were any questions. Mr. Carmichael wanted to make sure that the Fire Department was aware they had increased the fire load with the indoor composting. He stated that he did know that it could be addressed during the permitting process. Mr. Carmichael said that he has seen screening that does not cover the whole unit. He wanted to make sure that they were clear that the height and width of the screen is going to cover all areas that abut a residential neighborhood. Atty. Kurtzman replied the idea is to have adequate screening to address those issues. They were prepared to use the amount of screening necessary to cover the HVAC equipment, both height and width, to make sure that noise going toward the residential neighborhood is blocked.

Mr. Carmichael then asked that the loading dock area on the Site Plan be displayed. He wanted to make sure that it was not interfering with the fire road or parking areas. Atty. Kurtzman then displayed the plan. He showed the fenced in area and said that it is part of the parking lot. There is no interference with the Fire Lane. The idea is the delivery vehicles would come in here, unload or load the products, and be on their way. He said it would take approximately no more than five minutes. The parking area is for employees. Ms. Cline noted that in the most recent narrative regarding the parking it states, "The company will take...within the parking lot or store." She said that it should say property rather than store. There is time to correct this so there is no misunderstanding there is a store there. Atty. Kurtzman said it could be within the parking lot or premises. There is no store here, just the cultivation and manufacturing facility.

Atty. Kwesell said they will put in the Decision that there is no retail associated with this. She also noted that in regards to weekend deliveries, they are going to include a condition that it would be limited to two times per month. However, how would they be able to enforce that? She thought the only way there could be weekend deliveries was if there was prior notice to the Town. Mr.

Carmichael suggested limiting their weekend hours from 9:00 a.m. to 12:00 p.m. Mr. Phipps said they really did not anticipate any deliveries on the weekends. Their concern would be that a delivery company could choose to show up when they want despite tracking. He wants to keep that in mind before committing to that because he did not want them to look poorly in that moment for something that was beyond their control.

Mr. Olivieri asked the Board what were their concerns in limiting the deliveries. This is in an Industrial Park. Mr. Carmichael agreed but they abutted a residential neighborhood. Mr. Olivieri questioned whether other businesses were receiving deliveries on Sundays. Atty. Kurtzman thought this was a non-issue. They are not attempting to create a loophole so that they're going to start making frequent weekend deliveries. The notion is there is unpredictability sometimes, and they just wanted to let the Board know they are cognizant of that. If delivery had to come on the weekend, it wouldn't be more than twice a month. The Board could provide them with somebody in the Town that they can notify in the event of a weekend delivery, but he didn't see it as being an issue.

Atty. Kwesell agreed. This isn't a high-volume delivery business, but she was concerned with the paragraph that said they may have these deliveries on weekends. She didn't see them having them, but they can't have it as part of this record stating they are going to do that, with no way to enforce it. Mr. Carmichael thought a phone call 12-24 hours before that delivery would be acceptable. Atty. Kwesell said she is thinking an email, because then there would be a record of it. Atty. Kurtzman thought that was fine. Mr. Olivieri suggested restricting Sunday deliveries as an easier option to handle this. Atty. Kurtzman said they would defer to the Board's preference. Mr. Phipps said the rarity of weekend delivery is on top of the rarity of a company just showing up on a Saturday when they said they would be there on a Friday. They would be more than happy to commit to the advance notice in email.

Atty. Kwesell said she would draft the Decision. It is up to the Board if they want to close the hearing and then issue the Decision at their next meeting. Atty. Kurtzman asked if there was any way to vote on it tonight, so they could move forward with the process. Atty. Kwesell replied this is a Special Permit under the Zoning By-law. As soon as they close the hearing, they have 90 days to vote, and then 14 days after that to issue a Decision. This will be complete in 30 days. Her concern is if they close the hearing and vote tonight, and she drafts a Decision, she doesn't know if she will have everybody's conditions and comments. She would not want to file something with the Town Clerk and find that something was missing. They would be voting on a Decision that is not in front of them.

After further discussion, Atty. Kwesell said they would continue this but in case there is something they need for the Decision, they will be in touch. They can then talk about it at their next meeting.

Ms. Cline then made a motion, seconded by Mr. Youngquist, to continue the Boston Botanical, Inc. hearing, until April 15, 2021, at 7:00 p.m.

**Roll Call Vote:** Mr. Youngquist-Aye, Ms. Cline-Aye, Mr. Campeau-Aye, Mr. Sheedy-Aye, Mr. Carmichael-Aye, Mr. Olivieri – Aye

Mr. Olivieri said that there were some other items on the agenda that Atty. Kwesell was going to cover but she had another commitment with another Board in Town.

#### **New Business – KP Law-Housing Choice Act of 2020 Update**

Atty. Kwesell said that she just wanted the Board to know with the Housing Choice Act the statute calls for DHCD and MBTA to issue parameters and/or regulations to them. They have not done that yet, so DHCD sent out information to municipalities indicating they would not be penalized for not enacting all of this new zoning until those parameters are established. They don't know what is going to be said about density, location, and things like that. She would hope that this could be addressed at the fall Town Meeting but right now they are just in a holding pattern regarding it.

#### **New Business – Review sign bylaws**

Mr. Olivieri said the Planning Board sent out information regarding the review of the sign bylaws. He knew one of their goals is to update the bylaw so they don't, as a Zoning Board, end up hearing petitions for people that want to put up a sign that is a little bigger or whatever the case may be. In most communities, signs don't end up before the Zoning Board to the degree that they do in this community. He asked that they take a look at the information and add any input or comments.

#### **Adjourn**

Mr. Youngquist made a motion, seconded by Ms. Cline, to adjourn the meeting.

**Roll Call Vote:** Mr. Youngquist-Aye, Ms. Cline-Aye, Mr. Campeau-Aye, Mr. Sheedy- Aye, Mr. Carmichael-Aye, Mr. Olivieri – Aye

Meeting adjourned at 7:43.