

**Zoning Board of Appeals  
Lakeville, Massachusetts  
Minutes of Meeting  
April 15, 2021  
Remote meeting**

On April 15, 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; Gerry Noble, Vice-Clerk; Chris Carmichael, Member; Christopher Campeau, Associate; Christopher Sheedy, Associate

**Others present:**

Atty. Amy Kwesell, Town Counsel; Edward Phipps, applicant, Atty. Margaret Nash applicant's Counsel; Dennis Tetreault, applicant; Dustin Moore, applicant; Christine Lech-Goulart, applicant; Dominick DeMartino

**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 7:01. Mr. Olivieri said he believed Atty. Kwesell had prepared the findings and then asked her if she would like to comment on them. She advised the only thing was the parking was incorrect. It was her understanding that there had been an email, and the parking had been changed to 26 spaces. That was the only change, and other than that, the findings are okay unless the Board wanted to incorporate anything additional.

Mr. Olivieri asked if any member had any additional revisions. Mr. Carmichael asked how many spaces were there. Atty. Kwesell said it went from 34 to 26. For a cultivation facility, they are only looking for parking spaces for employees. This is not a retail situation where they would need more than that. She advised the only other thing she needed from the applicant was the location of the area that the Planning Board had wanted fenced in. Mr. Phipps clarified it was the loading dock area marked on the new Site Plan. Atty. Kwesell said that as long as it was fenced in on the new plan, they were all set.

Mr. Olivieri said he would entertain a motion to accept the findings with the revision that the parking spots would be changed to 26 as explained.

Mr. Youngquist made the motion. It was seconded by Mr. Noble.

**Roll Call Vote:** Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Youngquist-Aye, Mr. Noble-Aye, Mr. Olivieri-Aye

Mr. Youngquist made a motion, seconded by Ms. Cline to approve the Special Permit as applied for with the findings that had just been accepted.

**Roll Call Vote:** Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Youngquist-Aye, Mr. Noble-Aye, Mr. Olivieri-Aye

Atty. Kwesell noted that the Special Permit includes the conditions that had been drafted and the applicant was aware of those conditions.

The hearing closed at 7:08.

#### **Tetrault hearing - 7 Deneise Street**

Mr. Carmichael recused himself from this hearing. Mr. Olivieri asked Mr. Campeau to participate. Mr. Olivieri then opened the Tetrault hearing at 7:09 and read the legal ad into the record. Mr. Tetrault was present. He stated they are proposing to build a 30' x 40' garage. The house is 23 feet from the edge of the road. The setback for the garage will be 31 feet which is further away from the road than the house. They will have 27 feet to the neighbor on the west and 54 feet to their back-lot line. The only setback issue they have is from the road.

Mr. Olivieri then read the comments from various Town Boards into the record. The April 12, 2021, email from the Board of Health indicated they had no objections to the garage, as long as it is more than 10 feet away from the septic field and on a slab. The April 13, 2021, memo from the Planning Board had no comment regarding the petition. Mr. Olivieri noted, in addition, the Conservation Commission had reviewed all the petitions before them and had sent over an email stating they had no concerns on any of them.

Ms. Cline asked what would happen to the existing garage shown on the plan. Mr. Tetrault replied that garage is more of a storage area, so it would be used by his wife for parking. Mr. Noble asked how much new driveway was being added with this garage. Mr. Tetrault replied nothing additional is being added, but he would actually be removing approximately 120 square feet of driveway. There were no additional questions.

Mr. Youngquist made the motion, seconded by Ms. Cline, to approve the petition as applied for.

**Roll Call Vote:** Ms. Cline-Aye, Mr. Campeau-Aye, Mr. Youngquist-Aye, Mr. Noble-Aye, Mr. Olivieri-Aye

Ms. Murray explained the timing of the filings, the appeal period, etc.

The hearing closed at 7:17.

**Documents distributed for the hearing:**

- Petition packet
- Legal ad
- Board of Health correspondence of April 12, 2021
- Planning Board correspondence of April 13, 2021

**Moore hearing - 6 Sandy Point Road**

Mr. Olivieri opened the Moore hearing at 7:18 and read the legal ad into the record. Mr. Moore was present. He advised that he wanted to raze the house that is presently there and rebuild. The only thing that would be changed from the existing structure would be the addition of four feet facing the house on the left-hand side. He noted that even doing that he would still maintain at the closest point 25 feet from the property line.

Mr. Olivieri then read comments from the Town Boards into the record. The April 12, 2021, email from the Board of Health stated the property had a two-bedroom deed restriction with no increase in flow to the septic system and no further expansion, so if the proposed house was larger than the existing house, it would not be allowed. A Title V inspection must also be done if the applicant wants to reuse the existing septic system. Mr. Olivieri said it appears other than the four feet, it was not being made larger, and there was no plan to increase the flow. Mr. Moore said that was correct. The April 13, 2021, memo from the Planning Board had no comment regarding the petition.

Mr. Carmichael asked if there was a side setback to the lot line on the right side from Sandy Point. Mr. Moore replied the distance from the property line from the building at that back side is the closest at approximately 7.5 feet. Mr. Carmichael asked if there are any other structures on the other side of the property within that area. Mr. Moore said not in that area.

Ms. Cline made the motion, seconded by Mr. Noble, to approve the petition as submitted.

**Roll Call Vote:** Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Youngquist-Aye, Mr. Noble-Aye, Mr. Olivieri-Aye

Ms. Murray explained the timing of the filings, the appeal period, etc.

The hearing closed at 7:22.

**Documents distributed for the hearing:**

- Petition packet
- Legal ad
- Board of Health correspondence of April 12, 2021
- Planning Board correspondence of April 13, 2021

### **Lech-Goulart hearing - 11 Charbonneau Avenue**

Mr. Olivieri opened the Lech-Goulart hearing at 7:22 and read the legal ad into the record. Ms. Lech-Goulart was present. She advised they remodeled the house back in 1997. The floor plan they have has only one bedroom in it right now, and their lot is deeded for two bedrooms. They propose to connect the garage and the house together and have an extra bedroom upstairs.

Mr. Olivieri then read comments from the Town Boards into the record. The April 12, 2021, email from the Board of Health stated that a Title V inspection must be done prior to any building permit being issued. It also said the room above the garage could not be converted into a bedroom. Mr. Olivieri said he had received an updated April 15, 2021, email from the Board of Health which clarified the room above the garage can be used as a bedroom providing one of the existing two bedrooms in the home is removed, and as long as the home remains a two-bedroom home a Title V would not be required. Mr. Olivieri asked if the intention was to leave the home as a two-bedroom home. Ms. Lech-Goulart said that was correct. The April 13, 2021, memo from the Planning Board had no comment regarding the petition. Mr. Olivieri noted as discussed earlier Conservation also had no issue with the petition. Members had no additional questions.

Mr. Carmichael made the motion, seconded by Mr. Youngquist, to approve the petition as submitted.

**Roll Call Vote:** Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Youngquist-Aye, Mr. Noble-Aye, Mr. Olivieri-Aye

Ms. Murray explained the timing of the filings, the appeal period, etc.

The hearing closed at 7:27.

#### **Documents distributed for the hearing:**

- Petition packet
- Legal ad
- Board of Health correspondence of April 12, 2021 and April 15, 2021
- Planning Board correspondence of April 13, 2021

### **Twisted Growers LLC hearing – 415 Millennium Circle**

Mr. Olivieri opened the Twisted Growers LLC hearing at 7:27 and read the legal ad into the record. Mr. Olivieri asked Atty. Kwesell to clarify what the Board needs to do regarding this proposed change. She replied the only way to change a Special Permit is if there was an inadvertent error. Here they are actually changing the purpose of their Special Permit to allow for adult use. Under the Zoning Act, there is no way to modify a Special Permit and the only way that can be done is to issue a new Special Permit with the modified changes and it would have to come back to this Board.

Atty. Meg Nash was present and represented Mr. Dominick Demartino. She advised they had submitted an updated application with additional information with respect to what this would

entail. This is a minimal modification and would not change the exterior layout. It would just update the interior floor plan and allow for adult use manufacturing in addition to cultivation. There is nothing in the Special Permit findings as it currently exists that would prohibit manufacturing at this time so the specific relief requested is to allow for this additional use. This is a minimal change that will have zero impact on the findings and conditions that have already been approved by the Board. Mr. Olivieri asked for a clarification that this was going to be manufacturing or cultivation and there would be no on-premise sales. Atty. Nash said that was correct, and there would be no retail. They would like to amend it so it stays cultivation and adds product manufacturing to allow to sell edibles, etc. and not just flower.

Mr. DeMartino added that when he started through this process he was working with an unexperienced law firm. He thought when they got the ability to cultivate, the manufacturing went hand in hand with it. It wasn't until the firm they are working with now had indicated, although he had the ability to grow, he did not have the ability to manufacture. In their existing plans, they have the room laid out, and it was always his desire to do so. Atty. Nash added that goes to the inadvertence with respect to the prior Special Permit that may allow for this modification as was indicated by Atty. Kwesell.

Atty. Kwesell said that the Zoning Board had granted a Special Permit for a use, and the use was cultivation. They are now adding to that use product manufacturing. She did not see how that was an inadvertent error. There is no mechanism to modify a Special Permit without doing the notification to abutters. Mr. Olivieri noted that he was sympathetic to the petitioner, and it was probably just a mistake. Although this does change the permit enough so that they have to go through the process of applying again. Ms. Murray advised that this had been advertised and abutters were notified as if it was a brand-new petition.

Atty. Kwesell said that if this is a public hearing then the Board was all set and the public hearing is to modify the Special Permit. Mr. Carmichael then asked if they would have to go back and change the host agreement. Atty. Kwesell said she thought they already did and had just signed a new agreement. Mr. DeMartino said that was correct. Mr. Carmichael asked if there were impact statements from Fire and Police. Atty. Nash said that they have emailed Chief O'Brien everything that has been submitted to the Planning Board on March 31<sup>st</sup> and they had not yet received a response.

Ms. Cline said in looking at the additional equipment, she would want to make sure that due diligence has been done by Fire on that methodology, as that would not have been included in the original presentation. Atty. Nash said that information had also been sent to the Chief. That current list of machinery was over inclusive as Twisted Growers is in the process of recruiting and finding the individual to be the director of the product manufacturing. The decision of what specific equipment will be involved will be made by that individual.

It was then asked if the Board could approve the modification conditioned on confirmation the Fire Chief has seen this and is okay with it. Atty. Kwesell clarified that there is case law that the Zoning Board is not allowed to delegate its authority, so provided what they are asking the Fire Chief to do will not make or break their decision, then it is okay. However, what if the Fire Chief comes back and says that the equipment is not satisfactory. Mr. Olivieri clarified that the problem is if the Fire Chief does not give him a CO for safety reasons, but if it's outside of his authority

and the Zoning Board issued it, the Fire Chief could be told it doesn't matter that he said no because the Zoning Board has already granted the Permit. Atty. Kwesell said that was the exact concern.

Mr. DeMartino said as long as they had a safe environment it would be approved, and they would do everything that the Fire Marshall asked them to in order to comply. Whatever apparatus they have, they are going to have to follow the code in order to be able to operate it. Atty. Kwesell said the problem is how do they determine if this is not more detrimental to the neighborhood if you don't have safety conclusions. Mr. Olivieri agreed that was the issue. There are aspects to this in which their authority in granting this permit kind of trumps what the Fire Chief is able to do or not do. He is not saying that it would be challenged but they can't look at one individual or entity, they need to follow a protocol.

Mr. DeMartino asked if there had been something approved or denied at another operation that they were concerned with. Mr. Carmichael said regarding the interior remodeling, he was confident that Building Commissioner and the Fire Department would be able to address that. It was the exterior and the Site Plan and whether or not it's detrimental to the neighborhood. Are they adding more employees, more parking, are they changing the Site Plan? Do they need to continue this until they get impact statements? He was in favor of continuing until they receive impact statements from Police, Fire, and the questions he had asked had been answered.

Mr. DeMartino replied when he approached this, the facility already had this use happening within the facility. The small room that this is going to be in is approximately 300 square feet. There will be one to two employees, but that had been accounted for in their original plan. He understood their concerns, but to him nothing was changing. Mr. Olivieri said for this new aspect of what the business is going to be doing, they want to clarify that equipment is not going to change the make up of the operation. Mr. DeMartino said he had no issue coming to another meeting.

Mr. Olivieri asked if members were concerned about anything else beside the equipment on the inside. Mr. Youngquist added he was surprised they got through the whole process without the manufacturing as it is always included in a grow facility. He felt to make it clean, they should continue the hearing and get all the answers. Atty. Kwesell asked if the applicants had their Product Manufacturing license from the CCC. Mr. DeMartino said he was under the impression that they do have cultivation and manufacturing with the State. He said it was standard that if you have a grow facility, you have a product manufacturer. Atty. Kwesell noted they were separate licenses which is why she was asking. Mr. DeMartino replied he was sure that he had everything he needed from the CCC.

Mr. Olivieri added that if they were going to continue, that could be produced for the next meeting. Atty. Nash said they were happy to provide supplemental materials, follow up with Police and Fire, and provide documentation from the CCC. Mr. Olivieri asked if there were any additional questions. Mr. Noble asked if a Board of Health inspection is required. Ms. Murray said that was correct, and they would have to go to the Board of Health. Mr. Carmichael said in that case he would also like an impact statement from them.

Atty. Kwesell said the security plan that was with the cultivation facility must have changed. Even though there is only a room, she was assuming there was a change and asked if they had that plan. Mr. Olivieri noted that the Police Chiefs don't really share publicly but defer to the CCC. If they

got the license from the CCC that showed they are approving this use, does that confirm that the security plan submitted incorporates this use. Atty. Kwesell said it does, but one of the requirements of the filing is the security plan. Mr. DeMartino responded that inside the facility this was all accounted for, but they didn't apply for it properly. He could have Mr. Mitch Suzan, who would be handling the security attend the next meeting. Mr. Olivieri replied he would like Mr. Suzan at their next meeting, and he would also like them to send a copy of the security plan.

Mr. Carmichael then made a motion, seconded by Mr. Noble, to continue the Twisted Growers LLC hearing until May 20, 2021, at 7:00 p.m.

**Roll Call Vote:** Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Youngquist-Aye, Mr. Noble-Aye, Mr. Olivieri-Aye

Atty Nash confirmed the following items that had been requested:

- Impact statements from Fire, Police, and Board of Health
- State licensing documentation
- Security plan and attendance by Mr. Suzan at the next meeting

The hearing closed at 7:58

**Documents distributed for the hearing:**

Petition packet  
Legal ad  
Board of Health email of April 12, 2021.  
Planning Board correspondence of April 13, 2021

**Meeting minutes**

Ms. Cline made a motion, seconded by Mr. Noble, to approve the minutes from the November 19, 2020, meeting.

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

Ms. Cline made a motion, seconded by Mr. Youngquist, to approve the minutes from the February 23, 2021, meeting.

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

**Old Business – Sign bylaw update or discussion**

Ms. Murray asked if anyone had a chance to look at the sign bylaw and if there were any comments. It was decided to put this back on their next agenda.

### **Adjourn**

Mr. Carmichael made a motion, seconded by Mr. Noble, to adjourn the meeting.

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

Meeting adjourned at 8:05.