

**Zoning Board of Appeals  
Lakeville, Massachusetts  
Minutes of Meeting  
May 20, 2021  
Remote meeting**

On May 20, 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; William Mohan, applicant, Brandon Currier, Barlo Signs, Sara Andrade, tenant, Bruce Benoit, property owner; Atty. Margaret Nash, applicant's Counsel; Dominick DeMartino, applicant, Mitch Suzan, ECM Security

**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.

**S & L Pizza, Inc. d/b/a Domino's Pizza hearing – 56 Main Street**

Mr. Olivieri opened the S & L Pizza hearing at 7:00 p.m. and read the legal ad into the record. Mr. William Mohan was present. He advised he represented the applicant and they had found what they consider to be a very good location next to the Dollar Tree. The newest thing with Domino's National is what they call the drive-up window. The Town of Lakeville's definition is a drive-through facility, but he wanted to take a minute to let them know what the difference is between a drive-up and a drive-through. A drive-through requires a menu board. You place your order, pay for it at the window, and then wait for the order to come out, with an average wait time of three to four minutes. At their drive-up, there is no menu board in the back. You have to either call or order on-line, and then pay on-line. You are there strictly to pick the order up. When you drive up to the window, you give them your name, they give you the order, and you are gone in less than a minute. He noted that Domino's, the company, delivers and that is 90% of their orders.

Mr. Mohan said he had been asked to provide an estimate of how many customers would use the drive-up window. He has obtained those numbers from a franchise in Brockton. In off peak hours, they might get one to three cars per hour. In the peak hours of 11:00 a.m. to 1:00 p.m. and then 5:00 p.m. to 7:00 p.m., they might get five to ten cars per hour. It has never interfered with traffic.

The way this drive-through is set up, the cars have to come around the back of the building. You have to go across the entire length of the Dollar Tree to get to the drive-up window. They did not expect that to ever become a traffic hazard or become a concern. If someone drives up and has not pre-ordered, they will be instructed to drive to the front and come into the store and place the order.

Mr. Mohan advised that they did have two entrances into the plaza. One is into the Dollar Tree plaza and the second is from the road on the other side where they are located. At the corner of the building where the drive through window is there will be a trash receptacle. That will be checked on several times a day. He noted that both the Planning Board and the Board of Health had voted approval and should have provided their recommendations to the Zoning Board. They look forward to a good relationship with the Town of Lakeville. He stated that Domino's likes to give back and do a lot in their local communities.

Mr. Olivieri then read the May 18, 2021, memo from the Planning Board into the record. They recommended if the Special Permit was granted it should be conditioned that it would not be transferrable. They also stated the ZBA should add any conditions required to ensure that the traffic in the queue is no longer than the parking area allows. Atty. Kwesell confirmed that the Board would need to condition it if they did not want the Permit to be transferrable. Mr. Mohan said they had agreed to that at the Planning Board meeting.

Mr. Olivieri said the Board had received the plan showing the traffic pattern as it comes up to the side of the building and as pointed out it does run behind the building. It appears that there is more than adequate space and without the menu board, they would have to call ahead. He didn't think there was any major concerns for there to be a backup in the queue.

Ms. Cline asked for a clarification on the number of customers during off peak or peak hours. The memo they received indicated there is five during off-peak and ten per hour for the peak hours. Mr. Mohan replied it was one to three for off peak and five to ten during peak hours. She then asked if there should be an application for relief for the number of signs. She saw a request for eight signs. Mr. Olivieri said was it correct that the application tonight was only in regards to the drive-through. Mr. Mohan said that was correct. Mr. Olivieri said it was a good point to bring up signage, but if they haven't applied for it, they will have to abide by the bylaw. If they go beyond that, they would have to reapply and come back to them. Mr. Mohan noted that they have applied for the right to come before the Board at their next meeting on June 17<sup>th</sup> for the signs. Atty. Kwesell advised Ms. Cline that they would put in the Special Permit decision that this decision does not allow the signs where the site plan shows certain signs.

Mr. Carmichael stated that it had been said this was just a pickup window but there is an order board listed on the site plan out back. Mr. Mohan replied there will not be an order board. They would accept that as a condition. Mr. Carmichael noted that the drive-through actually goes to a loading zone for the Dollar Tree Store. Will it be re-striped and clarified? He said that is a concern and must be redone. Mr. Mohan said that is one of the reasons for their signs. Mr. Carmichael asked if they would clarify that with some painted street markings. Mr. Mohan said yes, they would do that. Mr. Carmichael asked if people would be brought in via Main Street or Ebony Farm Road. Mr. Mohan said there will be an opportunity to go either way.

Mr. Carmichael asked for a clarification of a Special Permit going with an applicant and a Variance going with the land. Atty. Kwesell advised a Special Permit can go with the applicant, but it doesn't always have to. It can go with the land and generally does so. The only time it does not go with the land is if it's specifically stated in the Decision. A Variance can never go with the applicant.

Mr. Noble said he understood they were not talking about signs tonight but he would ask if a directional sign related to safety related to navigation should be considered. Atty. Kwesell said that was correct, and those signs do not count. Mr. Mohan said that he believed three or four of the signs will be in the back of the building directing people to the other side. Mr. Currier then shared his screen. Atty. Kwesell noted that there could be no vote on the signs until their next meeting. Mr. Currier then displayed the sign package to the Board for informational purposes only. Mr. Noble was concerned directionally coming around counter clockwise to the building and how effective that sign would be for people driving in. Mr. Currier noted that signs C and D both have 'Do not Enter' on the back. They both will be illuminated and are 2' x 2' overall and 2' x 2' projection.

The following were some comments from Facebook:

PT Thomas "The abutters were promised no entry from Ebony Farm Road and a sign of Do Not Enter, just last week a sign was placed that said no right turn. No signage for entering Woods Edge condo, trash and alcohol empty bottles are thrown over Wood's Edge property. This will only make trash worse. The no right turn sign has been up for only one week is already spinning around backwards and is useless. Ebony Farm Road abutters were told it is not an entrance."

Diane Maturo "How are customers going to get around trailer trucks unloading."

Mr. Olivieri asked Mr. Mohan if he would like to respond. He replied he did not know what the contract is with deliveries for the Dollar Tree Store, but all of their deliveries are in the very early morning between 4:00 a.m. and 5:00 a.m. In every case, it is before they start for business. Dollar Tree might have some deliveries during the day, but he thought they could deal with that using directional lines and things like that. They could also speak with the owner who could provide drivers information on where they can go and where they cannot go at the back of the store. Mr. Olivieri asked if anything had been discussed with the Planning Board or any Board that they were going to restrict access to Ebony Farm Road. Ms. Murray advised the Planning Board had only discussed that the sign was not to be illuminated but nothing about not having an entrance on that side.

Ms. Cline then said there was a letter from a firm that represents the Woods Edge Condo Trust, which she then read into the record. It stated their clients' objections to the petition for a Special Permit for a drive-through/pickup window. Mr. Mohan said he would respond at their next meeting. Mr. Campeau then asked who would be the traffic director between monitoring the loading zone of Dollar Tree and making sure it doesn't interfere with the normal business operations of Dominos. Mr. Mohan replied that is a conversation that they will have with Mr. Benoit to make sure that all the Dollar Tree delivery drivers know where they can go and where they cannot go. Mr. Campeau asked if physically there was enough room if a delivery truck is there that it would not impede traffic. Mr. Mohan replied yes, there was ample room.

Mr. Carmichael said that after the loading zone, he would ask for somewhere between a 12- and 15-foot length for a clear passage for the drive-through and for emergency vehicles to get around the building. If they have to expand the parking lot in order to get ample clearance around that loading, then that's what has to happen as that is a major concern. Mr. Mohan noted that would never be a delivery truck that is going to Domino's. That's why they would have to talk to the owner of the building so that delivery drivers know that emergency vehicles still need to have access around.

Some additional comments from Diane Maturo on Facebook, "We have never had so much trash in our development. How much space do you think is out back for the ways truck unload and the way the traffic should flow. Dollar Tree gets deliveries all day."

Ms. Cline then made a motion to grant a Special Permit as requested for a drive-through, pick-up window at 56 Main Street, as provided by the Lakeville bylaw with the following conditions:

- 1, The Special Permit will not be transferable any new applicant will have to return to the Zoning Board for an updated review.
2. There will be a clear lane width of 12 to 15 feet outside of the loading zone.

The motion was seconded by Mr. Carmichael.

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

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

The hearing closed at 7:43.

**Documents distributed for the hearing:**

- Petition packet
- Legal ad
- William Mohan email of May 10, 2021
- Planning Board correspondence of May 18, 2021
- Joseph D. Saurino correspondence of May 19, 2021

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

Mr. Olivieri opened the continued Twisted Growers LLC hearing at 7:44. Mr. Olivieri asked Atty. Kwesell for an update on this application. She advised that she had reviewed everything that had been sent for the applicant through his attorney. She noted that the supplemental materials had answered all the questions that had been asked, but she had four items that she felt were still outstanding. She went back to the last decision which stated there would be 25 employees. Mr. DeMartino had stated several times that nothing would change but she just wanted to make sure that in the decision the number of employees was correct. She would like confirmation on that number. Atty. Nash said that was correct. The number of employees will not change. She noted for reference that the prior Site Plan that was included with the Special Permit application for

cultivation did include product manufacturing activities. She thought it had been drafted to reflect the entirety of the scope of the operations.

Atty. Kwesell said the next item was the hours of operation. In the Twisted Growers previous decision, it stated because it was cultivation, they would be operating 24 hours a day, 7 days a week. There is a difference between that and what was just granted to Boston Botanical which was 8:00 a.m. to 6:00 p.m. If the Board accepts all of the conditions from the last Special Permit, it would be 24 hours a day. Atty. Kwesell said the next point is the weekend deliveries. They asked Boston Botanical to minimize their weekend deliveries and have those be only twice a month, or if they were more they would have to notify the Town 24 hours in advance. She just wanted to point these differences out to the Board.

Atty. Kwesell advised her fourth comment was do they need to go back to the Planning Board. Her opinion was they do not because the Planning Board Site Plan has to do with pedestrian access, traffic, landscaping, etc. In her opinion, adding a use to an existing building would not require them to return to the Planning Board, but the Zoning Board is the permitting authority. Mr. Olivieri said he agreed with that opinion. Atty. Kwesell also noted the Board had asked the applicant to go back and get impact statements from Police, Fire, and the Board of Health. The Board of Health brought up that there was no grease trap and industrial waste water. The Fire Department advised they would most likely need a third-party reviewer. The Police Department said they would need a tour prior to operations. Since then, the applicant has incorporated the grease trap and the industrial wastewater in their new plans. That has been added as a finding. She also added as a condition that the applicant would fund third party reviewers for the Fire Department and the Building Department.

Atty. Meg Nash was present on behalf of Twisted Growers. She was joined by her client Dominick DeMartino and Mitch Suzan of ECM Security. She reviewed that Twisted Growers had previously received a Special Permit from the ZBA to allow for adult use cultivation. An application has been submitted to modify the existing Special Permit in order to include product manufacturing. It does not substantively change the number of employees, the scope of the Site Plan, etc. At their last meeting the Board requested some additional information with respect to the following three areas:

- Additional impact information statements from Fire, Police, and Board of Health.
- Documentation that demonstrated Twisted Growers has obtained provisional licenses for both cultivation and product manufacturing operations.
- A security plan demonstrating that it incorporated product manufacturing operations.

Atty. Nash said since the last hearing, Twisted Growers has made every effort to reach out to Police, Fire, and Board of Health to ensure that they will be operating consistent with municipal goals and existing regulations with respect to its proposed operations. In regards to Fire, they have provided comprehensive product equipment specifications and SDS safety sheets. They also provided a manufacturing safety plan demonstrating the full scope of the operations. After review, Chief O'Brien stated he was confident the equipment had been designed to minimize the danger of working with solvents, and he did not have any further comment. There was some question as to the integration of the equipment into the building. A follow up with the Building Inspector indicates that once further construction plans are finalized and the applicant seeks to pull a building permit the need for third party review can then be addressed.

Atty. Nash said regarding the Board of Health impact statement, Ed Cullen, Health Agent, advised he would want to ensure compliance with 310 CMR, 15.23 regarding grease traps. To the extent cultivation activities would be generating industrial wastewater, he would want to see that there is going to be an industrial wastewater holding tank installed at the facility to be in compliance with State regulations. The Site Plans have since been updated to reflect the locations where those proposed implementations could be used in the product manufacturing operations. She noted that Twisted Growers was still in the process of hiring its Director of Product Manufacturing, who will likely be primarily responsible for choosing the specific scope of operations. They do not contemplate a commercial kitchen as this time, but if that becomes part of their plans, there is a three bay sink available where a grease trap can be installed. Twisted Growers will comply with all State regulations as they are triggered. The industrial wastewater holding tank is also now reflected on the original plan. It was also noted in the original Special Permit that there would be a 10,000-gallon tank.

Atty. Nash said finally this is with respect to the Police Department impact statement. Chief Perkins indicated that at this phase in the permitting he was to receive a copy of the security plan, and tour the facility prior to final permitting from the Cannabis Control Commission (CCC). Otherwise, they had no other commentary. Atty. Nash said they have also provided documentation demonstrating that Twisted Growers currently maintains their provisional licenses for both cultivation and product manufacturing. Mr. Olivieri then asked Board members if they had any questions.

Mr. Carmichael asked if it was correct that there were to be no additional employees or parking spaces. Atty. Nash said that was correct. Mr. Carmichael also asked if there would be an increase of BTU's or if there was a need to change out the rooftop units. She replied not to her knowledge or understanding. Mr. DeMartino also said the answer was no. In their original application, they had already accounted for the space and the systems in place are all there and will handle what it is they are trying to accomplish. Mr. Carmichael asked if there had been any noise complaints. Mr. DeMartino said there have not been. There were no other questions.

Atty. Kwesell advised that she still needed to know what the hours of operation would be. Were they comfortable with the 24 hours per day or with the hours from Boston Botanical? Mr. Carmichael replied as this facility did not abut a residential neighborhood, he did not see a concern with them operating at those hours. Atty. Kwesell said her next question would then be regarding deliveries on weekends. Mr. Olivieri said he would think that would be the same and not an issue at this location. Atty. Kwesell said she would make the revisions as had been noted. She explained that she included a finding that this decision will incorporate and supersede the prior decision. Therefore, any condition that is not listed in this Special Permit but is in the other Special Permit will still apply, and any condition that is in conflict, will be controlled by this decision.

Mr. Youngquist then made the motion to grant the modification request to the Special Permit as outlined by Counsel. It was seconded by Mr. Carmichael.

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

The hearing closed at 8:06.

**Documents distributed for the hearing:**

Board of Health correspondence of May 6, 2021.

Planning Board correspondence of April 13, 2021

Atty. Meg Nash additional material submittal May 10, 2021

Atty. Meg Nash additional material submittal May 14, 2021

**Meeting minutes**

Ms. Cline made a motion, seconded by Mr. Carmichael, to approve the minutes from the September 17, 2020, March 18, 2021, and April 15, 2021 meetings.

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

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

Mr. Olivieri asked members if they had a chance to review the sign bylaw information, and if they had any comments. He suggested any comments be emailed to Ms. Murray by the end of next week, and then they could put them together and send it over to the Planning Board.

Atty. Kwesell wanted to note that Governor Baker is expected to lift the State of Emergency on June 15<sup>th</sup>. The executive order modifying the Open Meeting Law will then terminate. Therefore, on June 17<sup>th</sup> they will be meeting in person. They don't know if the Governor will do something to transition the return to in person meetings. She also discussed the option of hybrid meetings.

**Adjourn**

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

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

Meeting adjourned at 8:17.