

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

On November 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; Gerald Noble, Vice-Clerk; Christopher Campeau, Associate; Christopher Sheedy, Associate

Others present:

Atty. Amy Kwesell, Town Counsel; Robert Greene, applicant; Frank Morrissey, Bill Furtado, Richard Matthews, abutters; Benjamin Nadolny, applicant, Atty. Phillip Silverman, attorney for the applicant

Agenda item #1

Mr. Olivieri read this item into the record. It was an explanation of how the provisions of Chapter 20 of the Acts of 2021 allowed the Board to continue to meet remotely.

Greene hearing – 0 Shore Avenue, M041-B001-L011

Mr. Olivieri opened the Greene hearing at 7:02 p.m. and read the legal ad into the record. He asked Mr. Greene to explain what he wanted to do. Mr. Greene advised he had a long history with Clark Shores, and his parents used to own a cottage on Island Road. His father and a neighbor bought this lot sometime in the late 1960's to put their boats on. When his father sold the home on Island Road, Mr. Greene bought this lot. Since that time, he has been keeping the lot clean and paying the taxes. He would now like to be able to put a storage shed on the lot so he can store his WaveRunner and kayaks there. He also has a motorhome he would like to occasionally use to stop by and enjoy the lake for a couple of days during a couple of weeks of the year. He did not anticipate using the lot very often, as he has vacation homes in other locations.

Mr. Olivieri then read the November 10, 2021, letter from the Board of Health into the record. The Board of Health had no objection to the proposed storage shed as there will be no water connection and no need for a septic system. The November 15, 2021, letter from the Conservation Commission had several questions in regards to the proposed project. The November 15, 2021, memo from the Planning Board had no comments regarding the petition.

Mr. Olivieri then went through the following questions asked by the Conservation Commission:

- What type of flooring/foundation is proposed? Mr. Greene replied there will be no foundation. The shed will sit on blocks, and there will be a wood floor.
- Will the shed be constructed on-site or is it pre-fab? Mr. Greene said Stateline Sheds is going to construct the shed on site.
- What is the distance from the shed to the edge of the pond or small stream? Mr. Greene stated that is Hathaway Brook. The lot is 90 feet deep, and he is leaving the last 40 to 50 feet undisturbed.
- How many guest parking spots are proposed? Mr. Greene said it would be a maximum of two. If the motorhome is there, it will be one. If it is just passenger vehicles, it would be a maximum of two.
- Will there be any fencing or tree removal? Mr. Greene advised the fencing is already existing and had been put up by the neighbors. He would not be putting up any additional fencing. There will be no vegetation or trees taken down.

Mr. Olivieri asked Atty. Kwesell her opinion as a Variance required a higher threshold for approval if there was a way for them to approve this. Atty. Kwesell replied there are three prongs to the approval of a Variance. The first one is how is the property unusual in regards to soil, shape, or topography. What is the hardship. The third is does it derogate from the purposes of the Zoning By-law which likely this doesn't as the Zoning by-law allows sheds for storage.

Mr. Greene said the issue is the lot is 25 feet wide and any structure placed there would not conform to the setback requirements. Mr. Olivieri said he was not necessarily opposed to the project and did not think it was going to change the character of the neighborhood, but how would it be allowed. Atty. Kwesell said the shape of the lot creates a situation where any structure that's placed on the lot would violate the setback regulations. Mr. Olivieri then asked if Board members had any questions.

Mr. Noble asked what the total impervious coverage would be. Mr. Greene estimated with the structure and parking, it would be 30% which would all be at the roadway. Mr. Olivieri said the maximum allowed is 25%. Would he be able to reduce to that? Mr. Greene said he would keep it under the 25% amount. Atty. Kwesell said that they could make that a condition, and the Building Commissioner would not allow him to put that up if he was going to violate the lot coverage. Mr. Olivieri then asked if anyone present would like to comment.

Mr. Bill Furtado of 39 Shore Avenue asked what would stop this shed from turning into a cottage. Mr. Olivieri replied he would be required to go to several Boards to be able to turn it into habitation. If the Board was to approve this, one condition would be that it would be non-habitable. If anyone decided to change it to be habitable, they would need to come back to the Building Department and go through the proper channels. Mr. Greene added that there is no way you could get the proper distance from a well to a septic system or get that lot to perk. There is no way it could be turned into a habitable cottage, and he had no plans to do that.

Atty. Kwesell noted the Board might want to limit the amount of time a recreational vehicle could be there. Mr. Olivieri agreed that should be a condition. Mr. Greene had no problem with that. He suggested 30 days annually with a maximum of 14 consecutive days. Members were fine with that.

Mr. Noble then made the motion, seconded by Mr. Youngquist, to approve the Variance with the following conditions:

1. The structure will be non-habitable.
2. The impervious lot coverage will not exceed 25%.
3. Parking of any recreational vehicle is limited to a maximum of 30 days on an annual basis and 14 days consecutively.

Roll Call Vote: Mr. Campeau-Aye, Mr. Youngquist-Aye, Mr. Sheedy-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 November 10, 2021

Conservation Commission correspondence of November 15, 2021

Planning Board correspondence of November 15, 2021

Bud's Goods & Provisions Corp. hearing – 475 Kenneth W. Welch Drive

Mr. Olivieri opened the continued Bud's Goods & Provisions Corp. hearing at 7:28 p.m. and read the legal ad into the record. He asked the applicant's counsel, Atty. Phil Silverman, to update the Board in regards to the transfer of the license and the new application for this site. Atty. Silverman advised they were here tonight seeking a Special Permit for a marijuana product manufacturing and transporter business. The Board should be familiar with this building. They just want to use a small portion of the building about 6,700 square feet. He noted that his previous client had been in front of the Board for a Special Permit for both cultivation and product manufacturing. That project did not go forward and there had been no sale of the property. He then turned the presentation over to Mr. Ben Nadolny

Mr. Nadolny advised he was the VP of operations at Bud's Goods and Provisions. The Board has seen them several times as far back as 2018. After the sale fell through, they decided to maintain the site and their next objective is to do some in-house manufacturing on some products they are selling in their retail stores. They have some products that sell well so they are bringing some of that packaging and co-packaging in-house. Atty. Silverman stated that with the cultivation operation, the Board would have seen hvac units, all sorts of electrical, as well as, product manufacturing extraction. None of that will be going on here. Flower will be brought in that will be packaged for sale in their stores, or possibly some other types of non-flower products will also be packaged there.

Atty. Silverman said they would probably see anywhere from 12 to 15 employees for this business, and no more than 12 on site at any given time. With 23 spaces, there is more than enough parking. They are not really making a lot of changes to the Site, just having this much less impactful use. The security provisions would be the same the Board has seen with other facilities, and that are required by the Cannabis Control Commission (CCC.) He asked if there were any questions. Mr. Olivieri said that it does appear to be less impactful than the previous operation. He asked Atty. Kwesell if she had any questions or needed any clarification. She asked how many trucks there would be and what were their size. She noted that the other items, parking, security, etc. had been reviewed and discussed when the previous applicant had been in front of them.

Mr. Nadolny replied they have an interior space. It was not going to be trucks, it will be vans. Vans have to have cameras in the cargo area and in the driver's seat area. There are two drivers at any given time but in their facility, they will be bringing the vans into the building and shutting the door before there is any access to the rest of the building. If any trucks were to come, it would be deliveries of supplies. The bulk flower going in and the finished product coming out will be in those vans that will disappear inside the building. Atty. Silverman added that he had been led to understand that you might see one or two van trips a day. Mr. Nadolny agreed with that estimate.

Atty. Kwesell asked if there would be any off hours. Mr. Nadolny said at this point it was not in the plan. They want to operate in the business hours, Monday through Friday. They are not planning on it but they might have some manufacturing happen, but delivery doesn't typically happen over the weekend. Atty. Kwesell asked when the operation will be occupied with employees, what are the proposed hours of operation? Mr. Nadolny said they had proposed 8:00 a.m. to 6:00 p.m. He clarified that vans would not be coming in off hours, because it does not work for the rest of the industry. Mr. Olivieri noted that if they were to go forward and issue the permit, it would be with the hours that have been proposed. If the business grows to the extent that a second shift or third shift is needed, they would have to come back to the Board to ensure that safeguards were in place for the neighborhood. Atty. Silverman said that was very reasonable.

Mr. Olivieri asked if there were any questions from Board members. Mr. Youngquist asked if there would be retail sales. Mr. Nadolny said there will be no retail sales or on-site consumption. Mr. Noble asked if the fractional distillation process would occur at this location. Mr. Nadolny said it would not. If anything, they would possibly pilot some projects for only their retail stores. They will not be doing any extractions of any sort. They might do some mixing or blending emulsification but not distillation of extraction in that facility.

Mr. Olivieri then read the November 15, 2021, memo from the Planning Board into the record. The Board recommended the applicants have suitable containment for the loading of a vehicle, either inside the building in a garage bay or outside the building in a fenced area. Mr. Olivieri noted that had already been addressed and the vehicles would be going inside the building. Atty. Silverman said that was correct. The October 18, 2021, email from the Conservation Commission advised that there were wetland areas on three sides of the existing building. No action would be required as long as any construction activity is limited to the interior of the building. Outdoor construction and storage of materials in the buffer zone may require an RDA. Atty. Silverman replied that all work was being done inside. There is a gravel road going out and around, which had been requested by the Fire Department.

Mr. Olivieri also read the October 20, 2021, letter from the Board of Health into the record. It stated that the lot had been approved for a new septic system on 9/12/18, but the system was never installed and the approval has expired. The applicant would be required to resubmit septic plans for approval and install the system prior to occupancy of the building. The Board of Health had no objection to the proposed use. Mr. Nadolny said they understood it that as they were not changing the use to do cultivation, they were not going to have to change the septic system. Mr. Olivieri said they can still issue the permit, but it would be their responsibility to circle back with the Board of Health for their sign off.

Mr. Youngquist made the motion, seconded by Mr. Noble, to approve the Special Permit for Bud's Goods and Provisions Corp.

Roll Call Vote: Mr. Campeau-Aye, Mr. Youngquist-Aye, Mr. Sheedy-Aye, Mr. Noble-Aye, Mr. Olivieri-Aye

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

The hearing closed at 7:50.

Documents distributed for the hearing:

- Petition packet

- Legal ad

- Board of Health correspondence of October 20, 2021

- Conservation Commission email of October 18, 2021

- Planning Board correspondence of November 15, 2021

Approve meeting minutes

Mr. Noble made a motion, seconded by Mr. Youngquist, to approve the meeting minutes from the October 21, 2021, meeting.

Roll Call Vote: Mr. Youngquist-Aye, Mr. Sheedy-Aye, Mr. Noble-Aye, Mr. Olivieri-Aye
Mr. Campeau-Abstain

Old Business

There was no old business.

New Business

Mr. Olivieri asked if there were any petitions for December. Ms. Murray replied that as of right now, there were not. Mr. Olivieri said that if nothing came in within the next week, there would not be a meeting next month.

Adjourn

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

Roll Call Vote: Mr. Campeau-Aye, Mr. Youngquist-Aye, Mr. Sheedy-Aye, Mr. Noble-Aye, Mr. Olivieri-Aye

Meeting adjourned at 7:53.