

Zoning Board of Appeals Minutes
Selectmen's Room, Middleborough Town Hall
10 Nickerson Avenue, Middleborough, MA 02346
March 22, 2018

Chairman Darrin DeGrazia, Dr. Edward Braun, Dorothy Pulsifer, Joseph Freitas, Liz Elgosin, Joseph Freitas, Jack Healey and Matthew Maher were present.

7:30 P.M. Minutes

Upon a motion made by Liz Elgosin and seconded by Dorothy Pulsifer, the board

VOTED: to approve the minutes of February 22, 2018 and March 8, 2018.

Unanimous Vote.

7:30 P.M. Mukesh Patel (Green Harbor Dispensary) - 29 Abbey Lane

Chairman Darrin DeGrazia read into the record the legal advertisement and declared the hearing open.

Bill Madden, GAF Engineering informed the board that they have re-advertised the hearing to include cultivation and processing. Also, their Attorney Bob Carp was unable to attend tonight's hearing due to personal matters.

Bill Madden recapped information from the previous hearing. They have no objection to security fencing around the entire facility, there will be adequate parking, landscaping, and they will meet all the requirements of the Fire Department. Lengthy discussion ensued regarding parking and security. There will be gates installed with key pass entrance which will be open during the day and closed at night so people cannot access the property after hours.

Discussion ensued regarding the security between this facility and Mass Tank. Randy Kupferberg, Mass Tank said the hours of operation for his business are generally 6:00 am to 2:30 pm, four days a week. They will do Saturdays, but that is very rare. Matthew Maher asked if they have a security system for their business. Randy Kupferberg said yes. Darrin DeGrazia asked if it was determined who owns the circle there.

Carl Horseman, owner of the property and Mass Tank said it is his understanding that they do own the circle.

Chairman Darrin DeGrazia asked if anyone would like to be heard on this matter. Craig Anderson, 1 Abby Lane said unfortunately he was not able to attend the first meeting as he was not notified. He has met with the abutters and they have all discussed their concerns. The biggest concern is the security of their property. He has heard a lot of discussion regarding the security of this facility however; he hasn't heard anything about the security for the abutters. They will now be subjecting this small industrial park to an element that they have no history or understanding of. The second concern is the wear and tear of the road itself as this is privately owned. There is also a dance school located near this and there are a lot of children there.

So they are concerned about security for their property, the longevity and maintenance of the road, the well-being of the children at the dance school, and finally what sort of impact, negatively or positively is this going to have on their property value. This could negatively impact them. They do not object to

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this business model but they do not know the impact of this on the town. He understands the benefit to the Town, State, and to the landowner and they respect that, but they do have the above stated concerns.

Chairman Darrin DeGrazia asked what he would envision as a security measure that would take into account the surrounding businesses. Craig Anderson said he is not sure on that, he has thought about it, and has heard everything they are doing for their security, which means there is a real concern for security.

Chairman Darrin DeGrazia said with regards to the road, how are they maintaining the road now. Carl Anderson said honesty before this meeting they never got together to discuss it. This meeting brought to the surface this whole discussion of the road.

Mark Rochette, General Contractor, said he respects all of the concerns they have. They will agree to consider repaving the road and feels the maintenance should be split between all the owners. With regards to the property value, they are doing building improvements and generally building improvements do not decrease property value.

Charles Gillis does not agree that the building improvements will not decrease their property. He believes with the chain link fence and security cameras everywhere will certainly decrease the property value. If they do research they will find out this is a medical and recreational marijuana facility. Chairman Darrin DeGrazia said there is no recreational marijuana proposed for this site. Charles Gillis said starting April 1, 2018 it will be allowed by State Law and they have to look down that road. You are also going to be able to smell this facility. It is a huge concern with this going to recreational; once this is approved the town will not have a choice whether or not this goes recreational. Once this is in, all the repercussions from it are going to be dealt with from all the business owners on the street. That is a shame.

John Nadley, Director of Cultivation for Green Harbor, as well as the Director for In Good Life in Brockton, MA, which has been operating for three years now. The people in Brockton had very similar concerns to what they are hearing here. These are very valid concerns. They have not seen these concerns bare out. If anything, they add security to the entire area. They have had no criminal activity in three years. Carl Anderson asked if they are going to provide security on the road and patrol the area to make sure it is safe. John Nadley said they would like to work with the Town to make this happen. Carl Anderson said what he is hearing is there will not only be added security not to just focus on this property in question, but will pay attention on an ongoing basis to ensure surrounding property is secure. John Nadley said yes, they can do that.

Lengthy discussion ensued regarding security issues.

Chairman Darrin DeGrazia asked if they have formed any association for the roadway yet. Carl Anderson said that is in process. They have not really had to focus on this until now. Matthew Maher asked who has been maintaining the road in the winter time. Carl Anderson said one of the residents plows it and

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they all pay an even portion to have that done. Matthew Maher said if they do an association Mass Tank will be part of that, correct? Carl Anderson said yes.

Dr. Edward Braun said the one part that seems to be confusing, at least to him, does it mean if they approve medical marijuana for this site, in the future, they have no say as to whether or not it could become a commercial retail outlet. Is that really what the law says? John Nadley said it the town voted against this it would have been in the board's hand, but since the town voted for it, it is in the voter's hand. They can have a moratorium, but he believes that would have to expire at the end of 2018.

Dr. Edward Braun said if that is true, then he will not vote in favor of this petition.

John Nadley said either way they would have to come before the town and have a community meeting before they could apply. Dr. Edward Braun said he understands and appreciates his candor. This is the second hearing the board has had on medical marijuana. The previous one is located at the old Kahian Building. From a commercial marijuana retail site, that is appropriate to him, because there is no one there. It is located right off of Route 44, there are few homes in the area, and there was not one single abutter present with concerns. What they are talking about doing is going into an area that has an existing tax base, an existing group of people that live in that area, and have worked there for a long time.

He does not believe anyone on the board has a problem with the medical marijuana; it's the commercial use of it. He doesn't think they should take established businesses and put them in a circumstance where they do not know what their future is going to be. That is what bothers him with their proposal. He feels they have done a great job laying out the security, the plans, fencing, but the idea of the commercial use is not one he would approve. If he does not have the capacity to turn that part of it down, he will not approve this today.

John Nadley said the board could work out a private agreement with the owners. Dr. Edward Braun asked if they would sign a covenant that says they will not have commercial recreational sales in the future. John Nadley said that is up to the owners. Dr. Edward Braun said if something like that could be done he would probably vote in favor of this. He is not opposed to medical marijuana. John Nadley said that is what they are asking for today. Dr. Edward Braun said that is what they are here for today, but he does not want to cast a vote that indirectly approves something else. John Nadley said they do have to come back before the town before switching over.

Dr. Edward Braun said this board needs some legal agreement, that is enforceable, that states they can grow it there, they can sell medical marijuana here, but you will not have a retail recreational use there.

Mark Rochette said they would agree to a medical dispensary, cultivation for medical and recreational at this site but will not have any sale of recreational there. They would consider having another recreational spot, if the town votes for that, in another area. Chairman Darrin DeGrazia said that would be a separate hearing.

Chairman Darrin DeGrazia said if they are going to enter into some type of agreement the board is going to have to secure counsel, to which he would have to ask the petitioner to agree to cover the cost of.

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He asked if the applicant would be amendable to covering the cost of counsel in writing up a decision that would pass legal muster. The board will request an estimate and get that back to the applicant for his approval. Mark Rochette said he believes they will agree to this.

Jack Healey said the new regulations will be available tomorrow. He would like to review these regulations before making any decision.

Tracy Marzelli said the Cannabis Control Commission voted on March 9th to approve regulations. She just received a copy of them yesterday, they are 88 pages long, and has not had a chance to review all of it. Tracy Marzelli reviewed, in detail, some of the important issues in the regulations.

Jack Healey read into the record a letter dated March 22, 2018 from Ashley Place Condominium Trust, Board of Trustees.

Mark Rochette said he has worked in Middleboro for years. He has worked with Campanili and they have been a major player with job creation, job growth and bringing big businesses here. This is another business he will be bringing to your town and opening up more jobs.

Discussion ensued regarding securing legal counsel. The board will request an estimate from Attorney Jon Witten to review and draft a decision for this proposal.

Upon a motion made by Liz Elgosin and seconded by Dorothy Pulsifer, the board

VOTED: to continue the hearing until April 26, 2018, and request an estimate from Attorney Jon Witten regarding a draft decision for this request.

Chairman Darrin DeGrazia, Dr. Edward Braun, Dorothy Pulsifer, and Liz Elgosin were in favor. Joseph Freitas opposed (4-1)

Upon a motion made by Liz Elgosin and seconded by Dorothy Pulsifer, the board

VOTED: to adjourn at 9:00 P.M.

Unanimous Vote.