



6 Church Street, Gardiner, ME 04345
Phone (207) 582-4200

Debby Willis, Chairperson
Angelia Christopher, Administrative Assistant

PLANNING BOARD

Meeting Minutes

Tuesday July 27 2021 @ 6:00 PM

VIA Virtual Conferencing

In accordance with An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency, as enacted to read: Sec. G-1 1 MRSA §403-A Public proceedings through remote access during declaration of state of emergency due to COVID-19

1.Call the Meeting to Order- Chair Willis called the meeting to order at 6:03pm

2.Roll Call- Board members- Lisa St. Hilaire, Shawn Dolley, Pam Mitchel Chair Debby Willis. City Staff- Tracey Desjardins- Economic Development Director, Kris McNeill- Code Enforcement officer, Angelia Christopher- Planning and Development Assistant. Applicants- Robert Wheelock, Katrina Duffin, Eric McMaster, Tom Catchings, Peter Fowler, Kyle Sherman.

3. Public Hearing— Eric McMaster- place a 14'x30' building at 15 Lions Way- Map 029 Lot 001A in the MUV district- with the intent that it be used as a commercial kitchen for adult use cannabis products. This building houses an existing cultivation facility, which is very close to a local elementary school. After this application was tabled on 7/13, Mark Eyerman, City Planner, was asked to clarify 10.29.1 from the LUO, Marijuana section due to the proximity issue.

Mr. Eyerman presented a memo that gave his interpretation of this provision in the ordinance. He states in the memo that he feels that the proximity measurement should be from property line to property line-straight line distance. He goes on to explain LUO provisions 10.29.1.1 and 10.29.1.2- These provisions are included to address the limited situations where it is essentially not realistic to walk between the protected facility and the marijuana establishment. The key here is that it is a permanent feature that is not simply a barrier that is under the control of an applicant or other property owner. The Board is pleased with Mr. Eyerman's interpretation of these provisions which helped to clarify the ordinance and separation distance. At the last meeting, the Board did measurements from the school, to the address in question. The measurements between Board members varied, but were less than the required 1000' and more than 500'.

Chair Willis asks the Board if they feel that the application is complete- Yes. Can Board members hear this in an unbiased manner? Yes. There is a waiver request. The applicant is unable to locate the public utilities map. This will not be needed for this application. Pam Mitchel asks how many employees there will be. Mr. McMaster states there will be 2-3 full time employees. He also plans to keep the gate/fence that is on the property locked. Employees will need a fob or code to get into the site. Employees will use the entrance that is closest to the Lion's Club. Chair Willis asks the applicant to stay while the Board reviews the application.

In regards to the waiver- the Board agrees that this building has been set up for a long time, with City Utilities. A new development/building would need a map for utilities. Pam Mitchel makes a motion to grant the waiver for the lack of a public utility map. Lisa St. Hilaire seconds the motion. No further discussion. Roll Call vote- Pam Mitchel- yes, Lisa St. Hilaire- yes, Shawn Dolley-yes, Chair Debby Willis- yes. All in favor. Waiver granted.

Chair Willis opened the meeting for public comment. There was no one present to speak for or against the application. There was no public interest at City Hall. Chair Willis closed the public hearing.

Chair Willis continued with reviewing the application. The proximity distance should be 1000' from the school. Pam Michel states that since the distance is less than 1000', can 10.29.1.1 be applied. (Provided however, a functional equivalent minimum setback of five hundred (500) feet may apply provided that the Planning Board finds that any of the following are met- 10.29.1.2. The marijuana establishment is physically separated from the protected lot by a natural or other physical feature that makes pedestrian access between the two lots impractical.)

There is a barbed wire/chain link fence that surrounds this property that has been there for years. The applicants feel that this fence is more than sufficient as a barrier, and that the 500' setback should apply. The applicant explains that his property has a unique history of not being accessible to the public, and the fence has been there. The applicant has been using this facility for years, and has been a good tenant. This will not be a retail business. Product will be made, and sent out to another site. The Board feels that the barrier needs to be permanent, and the fence does not qualify as the tenant leases this property and does not own it.

There are many good things about this business/application, but this request does not fit according to the LUO. Under the amended ordinance for MUV this use would not be allowed. Under the previous ordinance, it was allowed, but whether or not it is allowed as a use is not the issue. The issue is the proximity distance to the school. There have been no issues, and the fence has been in use. The applicant states that he is responsible for maintaining the fence, and will make sure that it meets the board's requirements.

Chair Willis asks for a motion. Pam Mitchel makes a motion that this application meets the standard 10.29.1.2 because there is an existing robust barrier, with a condition the applicant must maintain that fence. Lisa St. Hilaire seconds the motion. Discussion-. Lisa St. Hilaire states that she feels that the application does not meet the ordinance due to proximity. Shawn Dolley feels that this a unique situation, and the problem is that the applicant does not own the property- therefore does not own the fence. There is a likelihood that the fence will stay there, but if the land gets sold, the applicant will not have control of the situation. No further discussion on the motion. Roll Call vote- Shawn Dolley- no, Pam Mitchel-yes, Lisa St. Hilaire- no, Chair Debby Willis- no. Pam Mitchel makes a motion that this application does not meet the requirements of the LUO. Lisa St. Hilaire seconds. No further discussion. Roll Call vote- Pam Mitchel- yes, Lisa St. Hilaire- yes, Shawn Dolley-yes, Chair Debby Willis- yes- All in favor to reject the application.

The applicant Eric McMaster, thanks the board for hearing the application. He is informed of the appeal process and what steps to take.

4. Public Hearing– Green ReLeaf Adult Use Cultivation- The applicant would like to use part of the space at 333 Brunswick Ave for an Adult Use Cultivation at 333 Brunswick Ave- Map 029 Lot 001 in the MUV district- The applicant tells the Board that he intends to block off the area that will continue to house the medical marijuana cultivation, leaving two separate cultivation facilities. He will have separate machinery, entrances, etc. Pam Mitchel asks how many employees he will have, he answers 3-5. The adult use cultivation would be on the back side of his property. There is a chain link- barbed wire topped fence surrounding the property. He owns the building and is responsible for the fence.

Pam Mitchel asks how they will dispose of dirt and water that has been used for the plants. Mr. Wheelock informs the board that most of their product is organic, and all water and dirt is recycled, so it would not be entering the City's systems. Mr. Wheelock explains that the entrance will be in the back, near Lions way. The gate will be locked at all times, and employees would need a fob or passcode to get in. There were no requests for waivers in this application.

Chair Willis opened the application for public comment. There was no one present to speak for or against the application. Chair Willis asks if there was any interest at City Hall. No. Chair Willis closed the meeting for public comment.

Mr. Wheelock would need an updated caregiver card, or a conditional license in order for this to be a complete application. There was a discussion about the responsibility of the fence. Mr. Wheelock reiterated that the fence is there to keep the buildings secure and both he and Mr. McMaster are responsible for maintaining them. Pam Mitchel makes a motion that the application is complete, with the conditions that the correct property boundaries be added, and there is an updated caregiver card. Shawn Dolley- second. No further discussion. Pam Mitchel- yes, Lisa St. Hilaire- yes, Shawn Dolley-yes, Chair Debby Willis- yes- All in favor

The Board will review the application and start with 10.29.1. This application has the same proximity issues that the previous one did. The building that this cultivation is proposed for, is less than 1000', but more than 500' away from a local school. Board members pointed out that this application does not meet the distance issue.

Lisa St. Hilaire would find that this application does not meet the requirements of 10.29.1.1 or 10.29.1.2 The Board feels that the fence is not a permanent feature that would allow this type of development to follow the 500' setback as opposed to the 1000' setback. It does not matter that Mr. Wheelock owns the property, it is a matter that the fence is not a good enough physical feature. Pam Mitchel makes a motion that this application does not meet 10.29.1 because the fence is not a permanent physical feature. Lisa St. Hilaire seconds the motion. No further discussion. Roll Call vote- Pam Mitchel- yes, Lisa St. Hilaire- yes, Shawn Dolley-yes, Chair Debby Willis- yes- All in favor to reject the application. Application denied. Chair Willis informs the applicant of the appeal process.

Pam Mitchel makes a motion that this application does not meet the standards of the LUO. Lisa St. Hilaire seconds. No further discussion. Roll call vote, Pam Mitchel- yes, Lisa St. Hilaire- yes, Shawn Dolley-yes, Chair Debby Willis- yes- All in favor to reject the application.

5. Public Hearing- Headspace Medical requesting to modify the interior of an existing structure for a medical marijuana cultivation and non- hazardous, solventless, extraction facility at 25 ABJ Dr. at City Tax map 019 Lots 002C in PD.

This application appears complete, does the board think they can hear this in an unbiased manner. Yes. Chair Willis asked if there were any outside services obtained. No. This will be a Tier 2 medical cultivation, and the applicant also wants to set up a cold extraction system, to make hash. Pam Mitchel points out that extraction is not an allowed use in PD. She asks if he has a license for manufacturing, and Mr. Fowler answers that his caregiver license allows extraction. Kris told him that he should consider this manufacturing, and include it. Mr. Fowler reports if he cannot do manufacturing that is fine. The majority of the work being done will be cultivation. Mr. Fowler is currently living in the home and will likely have some staff living there as well. He will have approximately three staff working with him and his dog will be living in the home as well.

The Board will table the part of the application that pertains to manufacturing and look at requirements solely for the cultivation. Chair Willis asks if the Board can hear this application in an unbiased manner. Yes. Kris McNeill- CEO- did not require any outside services with this application. Planning Board Draft Meeting Minutes 07.27.2021 AMC

There are several waiver requests on this application. This is an existing property, and several of the waivers are for areas that do not need to be addressed. There does not need to be a new stormwater plan, as there will be no soil disturbance. They do not need to show elevation as this is an existing structure. They also do not need an erosion control plan. Pam Mitchel makes a motion to waive the requirement for a stormwater management plan and for erosion and sedimentation control plan. Everything else is all set. Lisa seconds the motion. No further discussion. Roll call vote -Pam Mitchel- yes, Lisa St. Hilaire- yes, Shawn Dolley-yes, Chair Debby Willis- Yes all in favor. Pam Mitchel makes a motion that the application is complete with the waivers granted. Shawn Dolley seconds the waiver. No further discussion. Roll Call Vote- All in favor of application completeness.

Chair Willis opens the meeting for Public Comment. There is no one present to speak for or against the application. There has been no interest at City Hall either. Chair Willis closed the public hearing.

Review criteria. Section 4 is fine. If the applicant pursues manufacturing, he might not be able to live there, but for now that part of the application is tabled. The employees will be caregiver assistants, per state law. Section 10 - there will not be any signs. The applicant prefers that the site be low-key.

Sections 8, 6, 7, 9, 11. This is an existing site so many of the criteria do not apply. There are letters from the City Dept. heads, included as part of the application. Pam Mitchel asks how the applicant will dispose of fertilizers. Mr. Fowler answers that he knows that they do not go down the drain, but he is working on finding out how they need to be disposed of safely.

Section 7- The light locations are shown in the application but it appears that the lights being used will be flood lights. Will these lights fit into the Ordinance requirements? Kris McNeill will look into it, and if they need to be changed, Mr. Fowler states he will. There is a dumpster already on the property. Pam Mitchel explains that dumpsters need to be screened from view on all property lines. Air quality will be addressed with carbon filters and they plan on creating a sealed facility.

Section 9 there will not be any discharges into the City sewer system which could cause harm.

Section 11 Pam Mitchel asks if there is a parking plan. Mr. Fowler that there will be 6 parking spots, which is more than enough.

Chair Willis asks for a motion on this application. Pam Mitchel makes a motion that this application meets the performance standards to a tier 2 cultivation facility, Shawn Dolley seconds the motion. No further discussion. Roll Call vote- Pam Mitchel- yes, Lisa St. Hilaire- yes, Shawn Dolley-yes, Chair Debby Willis- yes. All in favor. Chair Willis went through the General review criteria, and found all areas to be in compliance. Pam Mitchel made a motion that the Planning Board approve this application. Lisa St. Hilaire seconds the motion. No further discussion. Roll Call vote- Pam Mitchel- yes, Lisa St. Hilaire- yes, Shawn Dolley-yes, Chair Debby Willis- yes. All in favor for this application- Tier 2 cultivation only. If the applicant cares to reapply for approval for manufacturing, he will submit a new application.

6. Other Business- The next meeting will be held in person. The Board will not have any applications to review at this meeting. The agenda will consist of reviewing the remote participation policy, and finishing the solar, and public notice ordinances. There will not be a second meeting in August. Gardiner Green is due to come back to the Planning Board possibly on September 14th.

7. Adjourn – Chair Willis asks for a motion to adjourn. Shawn Dolley makes a motion to adjourn at 9:05pm. Lisa St. Hilaire makes a second. Roll Call vote- Pam Mitchel- yes, Lisa St. Hilaire- yes, Shawn Dolley-yes, Chair Debby Willis- yes. All in favor.

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