

Maynard Planning Board – Meeting and Public Hearing
April 23, 2019 - 7 p.m.
195 Main Street, Room 101

Board Members Present: Greg Tuzzolo – Chair, Andrew D’Amour, Bill Cranshaw, Jim Coleman, Chris Arsenault

Others Present: Bill Nemser – Town Planner, Wayne Amico – Town Engineer, Kate Feodoroff – Town Counsel

Called to Order at 7:00 p.m by Greg Tuzzolo

Public Hearing – 4-12 Nason Street/Mass Wellspring (Continued from March 26, 2019)

The applicant updated the Board on his application, providing details from a new parking study he conducted. The business is currently assessing various apps that provide the capability to schedule appointments ahead of time. He reviewed the updated analyses of the number of parking spaces required based on transaction time, the number of point-of-sale registers, and other factors.

Wayne Amico stated that he has had two discussions with the applicant since the last hearing to discuss the updated parking/traffic analysis as well as signage. With regard to parking, VHB reviewed the two different parking analyses that were conducted by the applicant: one in January and one in April. Both analyses were conducted between the hours of 10:00 a.m. and 8:00 p.m. Wayne Amico also discussed an analysis that was done by MAPC (Metropolitan Area Planning Council) indicating roughly 66% capacity of available parking. An occupancy level of 85% would be considered full functional capacity. The analyses of the applicant resulted in an estimated maximum 77% capacity, which falls under the threshold of full functional capacity. Wayne Amico indicated that he believes that there will be ample parking for the proposed facility. With regard to signage, Wayne Amico recommends that three new signs be installed, two of which would replace existing signage: 1) Updated No Stopping Any Time signage to replace existing faded signs; 2) Updated pedestrian crossing signs at southbound Nason Street where Nason Street turns onto Main Street and on Main Street heading eastbound; 3) Two new pedestrian crossing signs at the rear drive entrance where there is currently no signage. In order to limit sign pollution in the downtown area, Wayne Amico does not recommend additional optional signage to be located in advance of the proposed signage. After discussions with the Town Planner and DPW Director, Wayne Amico recommends installing new trees and natural or artificial mulch in the empty tree pits located in front of the building in lieu of filling in the pits with concrete.

Jim Coleman stated that he visited three recreational marijuana facilities in Massachusetts at various times and days of the week to gauge parking availability/capacity, number of patrons congregating outside the business, etc. One facility was located in Salem, one in Hudson, and one in Lowell. He explained what he saw in terms of available parking spaces, lines of customers for the facilities, and other details. Based on what he observed, he expressed on concerns about the location of the proposed

facility in downtown Maynard. The applicant pointed out medical-use transactions take a longer amount of time and that all three of the facilities that Jim Coleman visited cater to both recreational and medical marijuana use, whereas the proposed business in Maynard would be for recreational use only. The applicant also stated that none of the facilities Jim Coleman visited are run by an appointment-only model; they all use a shuttle-based system. The applicant feels that the shuttle system would not be ideal for Maynard. There was some debate as to whether the three facilities do or do not operate under an appointment-only system

Chris Arsenault asked what would happen in the event that customers show up early for their appointment. The applicant pointed out that the police detail would facilitate in ensuring people are not congregating outside of the building.

Greg Tuzzolo asked about the capacity of the waiting vestibule located directly inside the front doors of the building. The applicant stated that it can hold 20 people. The applicant is in discussions with a neighboring business to potentially rent space that would allow for a larger waiting area.

Bill Nemser pointed out that it would not be acceptable to have people congregating outside the building, impeding the pedestrian flow on the sidewalks, and that the Board can reserve the right to address any related issues that come up within the first 60 days of a permit being granted.

Greg Tuzzolo asked for public comment.

Bill Cranshaw, a tenant of 14 Nason Street (and a Planning Board Member who has recused himself from voting on this hearing) feels that the proposed appointment-only system with a limitation of three customers per 15 minutes will alleviate issues of people congregating outside of the building. He also pointed out that the police would not be able to prevent waiting customers from window shopping at other nearby businesses, sitting on nearby benches, etc. Bill Nemser agreed but reminded the Board that they could address any issues that come up if/when they conduct a 60-day review. Bill Cranshaw suggested that a shuttle system might be a good option for employees of the business.

Greg Tuzzolo asked the applicant to reiterate the proposed operating hours. The applicant stated that the business would be open seven days a week from 10:00 a.m. to 8:00 p.m.

A resident expressed concerns about the potential for people to congregate outside the building waiting for an appointment or to schedule an appointment on site due to lack of access to technology or trouble utilizing technology to make an appointment. The applicant explained that as more and more marijuana retail establishments open in Massachusetts, he anticipates the demand will be more evenly distributed to the various locations. He also pointed out that there are many establishments that require appointments (hair salons, doctors offices, etc.) so the process of making an appointment is not something new to the public.

Natalie Robert of 48 Summer Street also expressed concern about the potential of customer overflow from the waiting area. She recommended that the applicant have a specific plan of how to handle the overflow (e.g. directing people to other businesses in Maynard if their wait is more than an hour and explicitly stating that they cannot stand outside the building). The applicant reiterated that he does not anticipate any problems with overflow based on the average transaction time and appointment-only model that is planned.

Judy Burgess of 18 North Street stated that she feels the parking of the proposed Maynard location cannot be compared to the parking of the Acton location due to the size of the parking area in Acton. She asked the applicant which neighboring business the applicant might possibly rent space from in order to increase the waiting area size. The applicant stated that it is the space located at 6 Nason Street. Judy Burgess expressed complete opposition to the selected location for the establishment.

Sandy Waye-Lawton of 50 Summer Street expressed concerns about the location and she pointed out that all three locations Jim Coleman visited are 2 miles from the downtown area of the towns in which those establishments are located.

Bill Nemser reminded the Board again that they can reserve the right to revisit any special permits within whatever time frame they deem appropriate (e.g. 60 days, 30 days, etc.) to address any issues that might come up such as traffic, parking, customer overflow, etc.

Linda Thayer of 14 Chandler Street stated that many of the businesses in downtown Maynard look forward to the additional foot traffic that the proposed business would bring to the downtown area. She also pointed out that 60 days is a long time to wait to address any issues that might arise and she suggested that the Board choose the shorter time frame of 30 days to revisit a special permit should one be granted.

Chris Arsenault asked when the Board would consider the start of the 30- or 60-day time frame for review. Bill Nemser suggested starting on the date of Certificate of Occupancy.

Maynard resident Michael Greendale, who is an employee of Art's Specialties, expressed support for the proposed location and feels that it would benefit the downtown area and businesses.

Town Counsel, Kate Feodoroff, described the time frames within which the Board can conduct a public meeting to address any issues that might arise after a special permit is granted and she detailed the legal requirements for advertising any such meeting. A minor modification would require a 48-hour notice, a true emergency (under the Open Meeting Law) can take place in less than 48 hours, and a major modification requires a 14-day notice to the public. Kate Feodoroff stated that Maynard passed a by-law at Town Meeting which gives authority to the Board of Selectmen to issue a license for a marijuana establishment (similar to a liquor license) and the applicant is required to obtain that license from the Board of Selectmen. She pointed out that if there are any areas of immediate concern, the Planning Board (PB) can bring those concerns to the attention of the Board of Selectmen (BOS) for a compliance check. One of the conditions of a license being granted by the BOS would be compliance with any conditions laid out in a special permit granted by the Planning Board to the establishment.

Jim Coleman does not believe there is adequate parking to support the proposed business.

Chris Arsenault asked why the application is for the address 4-12 Nason Street when all of the discussions have been related to just 4 Nason Street. Bill Nemser stated that it was done that way to accommodate for potential future expansion into neighboring building space should the applicant lease from those spaces in the future. Chris Arsenault would like to see the application match the approval. Kate Feodoroff stated that it is fine for hearing purposes to have a more inclusive conversation about the specific leased space as well as additional future expansion spaces that might potentially be leased. However, she pointed out that any decision the Board makes should be clearly written for the exact

space being leased and that any future leased space would need to be brought before the PB for decisions related to that specific space/address. Bill Cranshaw stated that the Board of Selectmen licensing process is very specific to address location. Kate Feodoroff explained that an expansion of use into address 6 Nason Street from 4 Nason Street would constitute a major modification.

Linda Thayer asked for clarification of the process should the applicant become out of compliance with a special permit condition or conditions. Greg Tuzzolo suggested that the appropriate time to address concerns related to a special permit condition would be at the next PB review hearing for the special permit. Wayne Amico stated that any public safety issues should be address by the police. If the business is out of compliance with licensure by-laws, it would be addressed by the BOS.

The Board discussed the need to clarify the business model under which the three other facilities that Jim Coleman mentioned operate in terms of appointment-only vs. shuttle, how many appointments are allowed per a given time frame, etc. Bill Nemser said he can research that information.

Jim Coleman requested that the applicant provide a diagram of the floor plan to indicate waiting area, display area, bathroom facilities, etc. The applicant agreed to provide that information.

A resident stated that it would be good to understand what made those three other businesses change their business model from appointment-only to a shuttle system.

Bill Nemser reviewed the draft recommendations for conditions of a special permit for the marijuana facility as follows:

- The applicant will re-appear in front of the PB in a time frame to be set by the PB and as part of a public hearing, if necessary, based on any issues that might arise
- The applicant will modify the exterior of the subject property to the recommended specifications laid out by the Maynard Police Chief (based on the standards of the Cannabis Control Commission)
- The applicant will open the business with an appointment-only system with 15-minute time blocks consisting of no more than three customers per time block
- During the hours of operation, a police detail will be provided at the applicant's expense
- Discharge of passengers onto Nason Street, Main Street, or in a location other than a designated drop-off area is prohibited
- The applicant shall ensure there is no congregation of persons that block or otherwise impede circulation of the public in any location connected with use of the subject property, including areas on or off the subject premises
- The applicant will utilize signage as recommended by Town Engineer, Wayne Amico
- The applicant shall conduct a traffic assessment six, twelve, and eighteen months after the store is open via a traffic consultant
- A special permit is valid for two years from the time of granting or certificate of occupancy, at which time the applicant will be required to file a renewal request

Bill Cranshaw requested that the PB deliberate on employee parking as well.

Jim Coleman asked if there should be a formal on-site traffic study conducted prior to the business opening to have as a baseline for the future traffic studies required in the conditions. Wayne Amico stated that he did not feel that was necessary since the business would be going into an existing storefront and there will be no dedicated parking for the business.

A resident expressed concern over the number of people Jim Coleman observed waiting outside of the Hudson marijuana facility. Linda Thayer pointed out that the Hudson facility is not located near other businesses, whereas the proposed business in Maynard would be surrounded by other businesses that customers could patronize.

The Board discussed the possibility of utilizing the River Street municipal lot as a designated employee parking area. Some of the attendees questioned how that would managed/enforced.

Greg Tuzzolo made a motion to continue the Public Hearing for 4-12 Nason Street to May 14, 2019 on or about 7:00 p.m., which was seconded by Andrew D'Amour.

The Board voted 4-0 in favor of the motion with one abstention from Bill Cranshaw.

Public Hearing – 42 Summer Street (Continued from March 26, 2019)

Greg Tuzzolo opened the Public Hearing for 42 Summer Street, continued from March 26, 2019.

James MacDonald stated that there were several changes made to the plan since the last hearing, but his engineer had just completed the changes to the documentation prior to the meeting and Wayne Amico had not had a chance to review them yet.

One of the changes made was to the “pergola” buildings to create accessibility to the Rail Trail. There will be two such buildings, one of which will be two stories and the other one story. Tim Hess is in the process of completing the drawings for the two structures.

Bill Nemser stated that the Town, including the Building Commissioner, has been in conversation and coordination with the applicant, and they have been on site to work with him to find a suitable solution to the accessibility and access to the Rail Trail from the property.

Greg Tuzzolo asked for the status of the development agreement. Bill Nemser stated that the pergola structures have not been tied into the development agreement and that the agreement has not yet been finalized.

Bill Cranshaw asked whether the other Board Members feel that the pergola structures that the applicant intends to offer to the Town in the form of an easement would satisfy the requirements of 9.4.5 of the Protective Zoning By-laws. Greg Tuzzolo suggested that the Board would need to have a valuation of the proposed structures.

The applicant agreed to get the pending drawings to Bill Nemser and to come up with a valuation of the proposed pergola structures (in both financial terms and in terms of the benefit to the Town) and provide that information to Bill Nemser as well.

Wayne Amico added that he has also met with the applicant and has been in conversations with him about the areas of concern he needs to address. The applicant is working through that list and Wayne Amico feels that the applicant is moving in the right direction to address all of the concerns.

Greg Tuzzolo made a motion to continue the Public Hearing for 42 Summer Street to May 14, 2019, which was seconded by Jim Coleman.

The Board voted 5-0 in favor of the motion.

Public Hearing – Theatre Creams (21 Summer Street)

Greg Tuzzolo opened the Public Hearing for 21 Summer Street. The applicant, Steve Trumble, was in attendance to present the information related to his request for a site plan review. The applicant explained that it has been about four and a half years since he opened the Fine Arts Theatre. His intent in opening the theater was to give back to the community and he feels that the community likes what he has done with the theater. The applicant would like to renovate the property adjacent to the theater in a similar way as he renovated the theater. He would keep the same type of 1950s/1960s retro theme but use all new materials after gutting the existing property. The renovated property would consist of a two-window ice cream shop. The applicant described his commitment to the community and how the theater has been supportive of the town by being involved, giving back through donations, employing town residents, etc.

The applicant's architect described the goals of the project. He has met with Wayne Amico to review the existing conditions together. The subject property has not been in use in years. In years past, it was utilized as a café. The intent of the project would be to supplement the other businesses in town. In addition to the two windows for ordering, there would be a small space inside where customers could order at a counter in the event of inclement weather or if there was a long queue. There would be one accessible toilet room for customers and employees. The property would have an occupant capacity of 20 people. Several years ago, the architect sought relief from the Mass Architectural Access Board (AAB) to maintain the existing ramp. The slope of the ramp is very close to what would be required for an accessible ramp in current standards. The AAB agreed that the existing ramp can stay but new hand rails would need to be installed. Based on feedback from Bill Nemser and Kaitlyn Young, the applicant's architect met with Tim Hess, who requested a full elevation and offered some design suggestions to the major façade changes that are planned, such as incorporating some of the exterior design materials of the theater into the ice cream shop façade (e.g. utilizing stone veneer). There would be a red fabric awning hanging on the front of the property over the ordering windows. Tim Hess had suggested to the applicant that a metal roof be used over the ordering window in lieu of a fabric awning due to concerns of fading and tearing. The applicant stated that his preference is a fabric awning and that he would replace the awning as needed. The ramp would have multiple uses: primarily as egress for the theater but also to allow customers of the second window of the ice cream shop to have an alternate exit path rather than walking back past the first window again. The hours of operation would be from 11:00 a.m. until 9:00 p.m.

Greg Tuzzolo suggested that at the top of the truncated handrail there should be a rail as customers turn the corner. The applicant's architect agreed that he can do a return at each of the corners. Greg Tuzzolo also asked for specifications of the width of the outdoor ordering space and the ramp behind that area.

The architect stated it would be five feet. Greg Tuzzolo asked if the front door of the business could be hinged to open a different way towards the outside area. The architect said it can be.

Bill Nemser clarified the PB's role in the review process.

Greg Tuzzolo asked for feedback from Wayne Amico, who generally had positive feedback regarding the proposed plan. Wayne Amico suggested that it might be easier to replace the existing ramp. The applicant will be meeting with a builder to determine what makes the most sense. Greg Tuzzolo stated that he would like to see the trash cans located in a different place than currently indicated in the plan. The applicant agreed he can do that.

Jim Coleman commended the applicant on his contributions to the community through his theater business.

A resident seconded what Jim Coleman said and stated that she feels the applicant does take the town into consideration.

Natalie Robert stated that she also agrees with the positive comments but would like to see a curb cut in front of the theater. Wayne Amico said there will be one there before July.

Linda Thayer asked if there will be any opportunity for outdoor seating. The applicant stated that he is working on that.

Greg Tuzzolo made a motion that the proposal for 21 Summer Street meets the criteria for design review, which was seconded by Andrew D'Amour.

The Board voted 5-0 in favor of the motion.

Greg Tuzzolo made a motion to grant site plan approval to the proposal for 21 Summer Street – Theatre Creams, which was seconded by Andrew D'Amour.

The Board voted 5-0 in favor of the motion.

Jim Coleman made a motion to adjourn, which was seconded by Andrew D'Amour.

The Board voted 5-0 in favor of the motion.

Adjourned at 10:00 p.m.