

Maynard Planning Board – Meeting and Public Hearing
June 11, 2019 - 7 p.m.
195 Main Street, Room 201

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

Others Present: Bill Nemser – Town Planner; Wayne Amico – Town Engineer; Brian Winner – Town Counsel; Joe Clermont – Attorney for Greenstar Herbals; Corinne Tobias - Traffic Consultant for Greenstar Herbals; Tom Morey – CEO of Greenstar Herbals; William Murray -- Landscape Architect for Greenstar Herbals; James MacDonald – MacDonald Development; Margaret Vosburgh –Viewpoint Sign and Awning; Robert Drake – Representative of Emerson Medical

Called to Order at 7:05 p.m by Andrew D’Amour

(Greg Tuzzolo was not in attendance at the opening of the meeting. Andrew D’Amour was Acting Chair until Greg Tuzzolo’s arrival at 7:08 p.m.)

Approval of Minutes

Andrew D’Amour made a motion to approve the Minutes of May 14, 2019, which was seconded by Bill Cranshaw.

The Board voted unanimously in favor of the motion.

Public Hearing – 42 Summer Street (Continued from May 14, 2019)

Greg Tuzzolo re-opened the Public Hearing for 42 Summer Street, continued from May 14, 2019. James MacDonald provided an overview of which trees would be removed during construction of the site and which ones would remain, per the Planning Board’s request from the previous Public Hearing. James MacDonald provided a landscape plan to the Board, detailing information about the existing trees as well as new trees that will be planted.

Greg Tuzzolo pointed out that any changes made to the site plan should also be reflected in the landscape plan.

There was a discussion about the appropriate material to be used for the retaining wall given that the wall will have a guard rail on top of it.

There were some inconsistencies between the revised site plan and some of the supporting diagrams for turning radius, etc. Greg Tuzzolo requested that the applicant resubmit the supporting documentation with temporary conditions removed and current, up-to-date information included.

James MacDonald stated that the two pagoda structures that were part of the proposal for the site have been removed from the proposal and replaced with a new proposal for those areas of the property. The new proposal also involves a piece of property on Thomas Street that is in the process of becoming owned by the town. James MacDonald is proposing to turn the property into park space with a walkway to the river. He intends to have the property surveyed. The proposal would, according to James MacDonald, satisfy the requirements of both 9.4.5 and 9.4.6 of the Protective Zoning By-laws relating to the Downtown Overlay District (DOD). Tim Hess asked the applicant to clarify how it would support those requirements. The applicant provided the Board with a document outlining the ways in which they propose to satisfy the requirements of the DOD by-laws and went over each line item with all of the attendees. The Board questioned whether or not the applicant's proposal for the Thomas Street property can apply to the requirements of 9.4.6-3 for the subject property (42 Summer Street). Bill Nemser said that he would follow up on that to find out from Town Counsel. James MacDonald asked if the Board would consider approval with the condition of sign-off by the Conservation Commission.

There was a discussion of the fact that the development agreement is in draft form and not final at this time. Greg Tuzzolo pointed out that the Board needs to see a detailed concept plan for the Thomas Street property to fully understand what James MacDonald intends to do with the property. Greg Tuzzolo stated that he doesn't feel a survey needs to be completed prior to the applicant completing a concept plan. Wayne Amico and Kaitlyn Young intend to visit the site during the coming week.

Bill Cranshaw pointed out that 9.4.5 states that you cannot issue a special permit until there is a fully executed development agreement in place.

Greg Tuzzolo asked Bill Nemser to confirm the process that should take place. Wayne Amico stated that Bill Nemser and Kaitlyn Young have both reviewed the proposal for the Thomas Street property and feel that it is a reasonable proposal, but Wayne will still visit the site and provide feedback as well.

Greg Tuzzolo summarized that the Board has the applicant's documents supporting the case for a DOD permit, regular special permit and design review criteria as well as revised plans.

Wayne Amico provided an overview of the timeline of communications between his team and the applicant. Wayne Amico had sent the applicant a draft letter on May 13, 2019 documenting all of his feedback on the proposal based on the materials that had been submitted to that point. There were multiple communications between Wayne's team and the applicant, including a several-hours long meeting on May 14, 2019 and subsequent email communications. Wayne Amico feels that the large majority of issues have been resolved and that he can do one more final review before providing a comprehensive letter back to the Board. Wayne estimated that about 95% of the issues have been resolved thus far and that the remaining issues related to drainage and grading will be addressed. Wayne Amico stated that in the draft letter dated May 13, 2019, there were roughly ten items that were deferred to the Planning Board for review and input (e.g. setbacks that are less than the minimum, etc.). There is a list of waiver requests included in the application. Greg Tuzzolo reminded the applicant that he needs to submit all required information in support of the requested waivers in order for the hearing to be closed.

The Board discussed the need to have a finalized version of the development agreement presented to them along with the application for a special permit prior to them closing the public hearing and deliberating. Greg Tuzzolo requested that, once the development agreement is finalized, the applicant present an overview of the key highlights of it to the Board and the public as part of the public hearing process for the subject property.

Greg Tuzzolo asked for comments from the public. There were no public comments.

Greg Tuzzolo made a motion to continue the Public Hearing for 42 Summer Street to June 25, 2019, which was seconded by Andrew D'Amour.

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

Public Hearing – 115 Main Street (Continued from May 14, 2019)

The applicant requested a continuation of the Public Hearing for 115 Main Street.

Greg Tuzzolo made a motion to continue the Public Hearing for 115 Main Street to August 13, 2019, which was seconded by Andrew D'Amour.

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

Public Hearing – 22-24 Main Street -- Greenstar Herbals, Inc. (Continued from May 14, 2019)

Greg Tuzzolo re-opened the Public Hearing for 22-24 Main Street (Greenstar Herbals, Inc.). Joe Clermont, Attorney for Greenstar Herbals, addressed the ideas and comments that were made at the last meeting as well as feedback that had been given to Greenstar Herbals by Town Staff subsequent to that meeting. One of the suggestions that had been made was to have the facility open with an appointment-only system. Greenstar Herbals is requesting that a procedure be put in place to allow that requirement to be lifted, e.g. with Police Chief approval, following a soft opening. The reasons stated were as follows: Greenstar Herbals will be making a significant investment in Maynard by purchasing the property and renovating it versus leasing; a traffic study was conducted indicating minimal impact to traffic flow; there will be sufficient parking to accommodate patrons of the facility – 38 dedicated parking spots; there will be security personnel at the site at all times assisting with traffic flow through the parking area and ensuring no congregating occurs; and there will be a large waiting area within the facility – enough to accommodate 60 people.

The second request of Greenstar Herbals is that, if there is a condition placed on the permit indicating that the back portion of the building is not to be utilized (because Greenstar Herbals does not intend to use that portion of the building in the near future), the condition further states “unless and until appropriate permit approvals are received” to allow for potential future use of that space.

Tom Morey, CEO of Greenstar Herbals, reiterated his commitment to the town of Maynard and also stated that he does not anticipate any issues with traffic flow. He also requested that the Board consider

allowing the requirement of appointment only to be removed after a soft opening of the facility and with approvals from the appropriate parties (i.e. the Police Chief, the Planning Board, etc.).

Corinne Tobias, Traffic Consultant for Greenstar Herbals, provided an update on their traffic study and what the applicant intends to do to address the results of the study. They feel that the addition of signage as well as having security in the parking lot at all times will prevent people from exiting onto River Street. Andrew D'Amour asked why the applicant cannot install a barrier to prevent traffic from exiting onto River Street and stated that he is opposed to installing more signage in that area. Corinne Tobias also discussed signage that the applicant is proposing at the intersection of Main Street and Summer Street to help alleviate confusion of drivers as they transition from one-way Main Street onto a two-way street (either Summer Street/Rt 62 or Rt 27). Both VHB and Greenstar Herbals presented proposals for signage that the Board will consider.

William Murray explained the proposed rain garden that will be installed, which includes some recommendations from VHB. There was some concern expressed by VHB regarding the turning radius with the dumpster being located where it currently is. William Murray stated that the dumpster cannot be moved without removing two parking spaces and that the dumpster has been in its current location for 25 years. He also pointed out that these types of facilities do not generate a lot of trash. Wayne Amico stated that with the material that was submitted by the applicant showing the ability of the trucks to back up and exit the parking lot, Wayne Amico is satisfied with what the applicant has proposed (i.e. keeping the dumpster where it is).

The applicant asked about the inconsistency in the number of trees required to be planted on their property versus the number of trees required to be planted by the owner of the other marijuana facility on Nason Street. In the interest of parity, they are requesting the requirement for the number of new trees they install to be 4 instead of 11. Chris Arsenault stated that he would like to understand where it would make the most sense to have new trees planted rather than just refilling empty tree wells where new trees may still not survive. Wayne Amico pointed out that although a comprehensive analysis could be conducted if the Board deems it necessary, it may end up being more costly to the applicant to have to rip up sidewalks, etc. to install trees in new locations. Greg Tuzzolo agreed that the Board should consider doing that type of study.

Wayne Amico summarized the timeline of communication between VHB and the applicant beginning with the initial comment letter that VHB sent on May 8, 2019 in response to the application for a special permit. Wayne Amico feels that the applicant has done a good job of addressing all the comments of VHB. The only thing VHB has not had a chance to review is the revised traffic study that was submitted by the applicant. He is okay with the Board closing the hearing under the condition of a comprehensive review of that revised study by VHB.

Jim Coleman asked the applicant to explain why the number of appointments they are requesting to be allowed per hour is a much higher number than what is being allowed at the other facility on Nason Street.

Tom Morey stated that the company considered many different sites for the new location and that they were very particular in choosing Maynard. The company made a significant investment when they decided to purchase the property at 22-24 Main Street specifically due to the location and the available

parking, and they don't anticipate issues with traffic/pedestrian flow. He is requesting a two-week time frame after the facility opens to re-evaluate the need for an appointment-only system.

Brian Winner pointed out that although it's important for the Board to have consistency in its decisions, each site should be considered individually and the Board is not bound by decisions made for a separate site. He also stated that any time frame that's set for a follow-up discussion needs to allow time for the Board to provide notice to the public for the related hearing. The time frame for follow-up of the other marijuana establishment (Wellspring on Nason Street) was set at 45 days after opening. Brian Winner stated that a two-week time frame would be too tight. Any amendment to or removal of a condition would require a public hearing.

Greg Tuzzolo asked for public comment. A resident of Maynard asked for clarification of the intended operating hours. Tom Morey stated that their proposal included the hours of 8 a.m. -11 p.m. but they will abide by the Town's preferred operating hours. The Planning Board will determine their recommendation for the business' hours of operation, but because of the laws governing cannabis facilities, the Board of Selectmen will make the final determination of appropriate operating hours and may further restrict the hours determined by the Planning Board. The operating hours that were approved by the Planning Board for the other marijuana facility were 10 a.m. – 8 p.m.

Trish Saunders of Dettling Rd. asked what the Town's maximum allowable hours of operation are for establishments that sell alcohol and if those hours would be a guideline for marijuana establishments. She also asked if the Town has determined a limit to the number of marijuana facilities that could exist in Maynard. A limit to the number of marijuana establishments allowed in Maynard has not been set. State regulations governing alcohol establishments determine allowable operating hours for those businesses. The Cannabis Control Commission defers to individual towns to determine appropriate operating hours for marijuana establishments. Trish Saunders requested that the Town not allow operating hours of the marijuana facilities to be in excess of what is allowed for alcohol establishments.

Greg Tuzzolo asked the Board if they feel they have enough information to make a determination. Bill Cranshaw wanted to discuss alternatives to the proposal for ensuring traffic from the parking lot does not exit onto River Street, such as a gate, a change in easement, signage, etc. Wayne Amico stated that he feels a gate with a clip would be a viable solution, though the applicant would need to discuss that solution with the owner of the Laundromat. That solution would still allow delivery trucks to utilize the River Street access to the Laundromat while deterring visitors of the marijuana establishment from attempting to exit onto River Street.

Skye Lucier of River Street stated that she would like to see a semi-permanent barrier rather than just signage.

The applicant stated that he has no objection to the use of a gate to prevent traffic from exiting onto River Street, assuming the other business owner (of the Laundromat) is in support of a gate as well. The applicant will discuss that solution with the business owner.

James MacDonald, who owns property on both sides of the subject property, asked for clarification of the proposed location of the gate. He also requested that the hours not be allowed to go until 11 p.m. as both of his properties at that location are residential.

Wayne Amico asked that Greenstar Herbals' Traffic Consultant provide a summary to address comments of the Board and the Town related to the traffic study. Traffic Consultant Corinne Tobias reviewed the revised study, including the trip generation information and parking study. She also pointed out that there was no study conducted at River Street since access to that exit will be prohibited.

Tim Hess pointed out that none of the graphic information (tree placement, parking, signage, etc.) has been made available to the public, hampering their ability to fully participate in the discussion.

Greg Tuzzolo asked the Board if they feel like they have adequate information to make a determination based on the criteria for a special permit or if more information is needed. He recommended that the Public Hearing be continued and that the supporting material for the subject application be posted to the town website for review by the public prior to the next hearing.

Greg Tuzzolo made a motion to continue the Public Hearing for 22-24 Main Street (Greenstar Herbals, Inc.) to June 25, 2019, which was seconded by Andrew D'Amour.

The Board voted unanimously in favor of the motion.

Public Hearing – 21 Main Street -- Emerson Medical (Continued from May 14, 2019)

Greg Tuzzolo reopened the Public Hearing for 21 Street -- Emerson Medical, continued from May 14, 2019.

Margaret Vosburgh, a representative of Emerson Medical, reminded the attendees that the applicant is requesting a special permit to increase the allowable sign size, per the by-laws, from 16 square feet to 32 square feet per sign. They are proposing three signs on three different elevations of the building. Each sign is 32 square feet. The material would be flat-cut aluminum letters (non-illuminated), stud mounted flush to the building. The applicant provided renderings of the signs to the Board. They are also asking approval for a monument sign that would be 15 square feet. The applicant is not requesting to utilize the existing blade sign and is willing to remove it if requested to do so.

Robert Drake, Emerson Medical's Director of Facilities and Real Estate, stated that they are only leasing the first floor of the building and that the second floor is currently unoccupied. Emerson Medical is not requesting signage on the second floor in the event that another business leases that space. Bill Cranshaw pointed out that signage for the second floor would require a special permit since Emerson Medical's signage proposal would utilize all of the allowable signage square footage.

Greg Tuzzolo pointed out that the monument sign would be a fourth sign. Margaret Vosburgh stated that the monument sign already exists and is in compliance and what they are asking to do is to add vinyl to it in order to add their name and logo. Greg Tuzzolo stated that since the monument sign already exists, the applicant can use it by right. Bill Cranshaw pointed out that it is confusing to have the monument sign in that location of the parking lot now that the traffic flow has changed and that parking lot access will be exit-only. He expressed concern that people will think it is an entrance to the parking lot due to the sign being located there. Robert Drake stated that it was the Fire Chief who recommended that the Main Street access of the parking lot be changed to exit-only in order to address the applicant's concerns for patient safety as they are walking to and from the building through the parking lot. Robert

Drake stated that the current location of the sign would also help pedestrian patients find the building more easily as they are walking to it from Main Street.

Robert Drake stated that the purpose of the monument sign is to advertise the physicians who will be practicing in the building. He said that if the Board is recommending that the monument sign be moved to the Summer Street entrance, the applicant is willing to do that. Robert Drake stated that there is a fire hydrant near the Summer Street entrance and they would need to be careful where the sign is placed. He also pointed out that Emerson Medical is a lessee and not the owner of the building.

Tim Hess provided some design review feedback. His suggestion is that the signage for Emerson Medical be associated with the entry rather than with the whole building given that there might be another tenant occupying the second floor in the future and that the second-floor tenant would have a separate and distinct access point for the second floor. Robert Drake stated that they proposed the signage the way they did in order to eliminate additional expenses rather than making changes to what already exists on the property. Their volume is impacted right now due to the lack of signage and the applicant will do what the Board requires them to do so that they can have their signage in place sooner rather than later. Greg Tuzzolo agreed that it makes more sense to have separate signage for each floor of the building located near the entrance to the respective floor rather than one sign in the middle for both floors.

A member of the public commented that by not hearing from the building owner, the Board is not fully informed about what the building owner's desires are, and that the Board might be in a position where they will have to give a variance beyond the allowable signage space for the property. Greg Tuzzolo stated that his understanding is that there is no provision or language in the code that pertains to signage master plans for complexes and that the Board is responsible for addressing each request as it comes forward. He shares the concern of the attendee. Chris Arsenault stated that he does not want the Board to make a decision based on what might or might not happen in the future with regards to tenancy of the second floor. Greg Tuzzolo suggested that the Board should consider a future revision to the signage by-laws to address the issue.

Wayne Amico expressed concern about the fact that the two-way access to the parking lot, which previously allowed entry from and exit onto Main Street, was changed to a one-way access for exit only. Wayne wants to better understand the traffic signage that is being proposed with that change. Robert Drake stated that there will be Do Not Enter and One Way signs at that exit. Bill Nesmer stated that the site plan as approved has the parking lot access from Main Street as a two-way access, with entry and exit allowed. No changes have been approved by the Planning Board to change it to one-way only. The change would require a site plan review by the Planning Board.

Greg Tuzzolo summarized that the Board is requesting that the applicant shift two signs inward towards the corner bays.

Greg Tuzzolo made a motion that the Board finds that the adverse affects of the proposal for 21 Main Street will not outweigh its beneficial impacts to the town, which was seconded by Andrew D'Amour.

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

Greg Tuzzolo made a motion that the proposal meets the criteria for a Downtown Overlay District special permit, which was seconded by Andrew D'Amour.

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

Greg Tuzzolo made a motion that the Board finds that the proposal satisfies the criteria for special permit approval based on section 10.4 of the by-laws, which was seconded by Andrew D'Amour.

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

Greg Tuzzolo made a motion that the Board approves the special permit as outlined in the proposal with the following conditions: 1) that the applicant removes the blade sign, and 2) that the applicant shifts signs A1 and A2 to the corner bays. The motion was seconded by Andrew D'Amour.

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

Town Planner/Engineer Updates

a. 129 Acton Street- review of developer's request for bond release and punch list completion

Wayne Amico stated that he and Bill Nemser walked the site and found three issues that needed to be resolved: 1) adding a piece of recessed curbing; 2) adding some landscaping and completing the installation of a sign; 3) a new crosswalk that was to be installed was going to cross directly into a utility pole and only have a handicap ramp on one side of the crosswalk.

Wayne explained the first item was addressed to the Town's satisfaction. His recommendation is that the Board and the Town Planner find that the second item (landscaping) has been satisfactorily completed, but the Town can install additional plants if desired. With regard to the third item, Wayne had informed the applicant that he would need to install a standard handicap ramp, which is a concrete panel with a tactile strip as well as make the handicap ramp on the other side of the crosswalk compliant with current standards. The applicant did not do what Wayne indicated was required and the applicant informed Wayne that he would not do it. The Board discussed retaining all or a portion of the bond as a result. Greg Tuzzolo recommended that the Town completes the work as it sees fit and sends the balance of the bond to the applicant.

b. 170 Main Street- review of developer traffic report and recommendations.

Wayne Amico stated that, per a condition of the site plan approval for 170 Main Street, the applicant provided a traffic study to the Town. Wayne Amico explained that the study was deemed to be acceptable with a few minor changes that were recommended with regard to striping and signage.

c. Maynard Crossing - Site Plan status, police detail disposition and project progress report.

Bill Nemser stated that at a previous meeting, there was a dispute regarding who is financially responsible for the police details for off-site improvements of the 129 Parker Street project. The bill to date has been paid by the applicant. However the applicant still maintains that the Town is financially responsible for the details. Town Counsel is in contact with the applicant's counsel. There is currently nothing in writing that the developer is accepting responsibility for payment of future details. But the Town's position is that neither the memorandum of agreement nor any decisions of the Planning Board specify that the Town is responsible for payment of the details.

Greg Tuzzolo made a motion to adjourn, which was seconded by Andrew D'Amour.

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

Adjourned at 11:12 p.m.