

DECISION

GRAFTON PLANNING BOARD SPECIAL PERMIT (SP 2019-16) & SITE PLAN APPROVAL

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Marijuana Establishment

13 Centennial Drive
MJ's Market, Inc. (Applicant)
SBA/WBDC (Owner)

Decision of the Planning Board of the Town of Grafton, Massachusetts (hereinafter the BOARD) on the petition of MJ's Market, Inc. (hereinafter the APPLICANT) for Special Permit & Site Plan Approval for a Marijuana Establishment, including but not limited to a Registered Medical Marijuana Dispensary, Marijuana Cultivator, Marijuana Product Manufacturer, Marijuana Retailer and Marijuana Transporter on property located at 13 Centennial Drive (hereinafter the SITE) and shown on the Grafton Assessor's Map 5, Lot 1.G, and owned by SBA/WBDC (hereinafter the OWNER) by deed recorded in the Worcester District Registry of Deeds Book 30622, Page 198.

I. BACKGROUND

The application for the Special Permit and Site Plan Approval (hereinafter Application) was filed with the Planning Board on October 9, 2019. Notice of the public hearing and the subject matter thereof was published in the Grafton News on October 17 and 24, 2019 and posted with the Town Clerk's Office on October 11, 2019. Abutters were notified by First Class Mail. The public hearing on the Application was opened on November 4, 2019 and continued, at the request of the applicant with concurrence of the Board to November 25, 2019. During the public hearings, all those wishing to speak to the petition were heard. Following public input, the hearing was closed on November 25, 2019.

At the hearings the following people presented the Application: Heath Gaffney, Chief Executive Officer of MJ's Market, Brian Foley, Chief Operation Officer of MJ's Market, legal counsel Jon Capano of Smith Costello and Crawford, and Amy Archer, Traffic Engineer with Pare Corporation.

The following Board members were present at the public hearings: Vice Chair Robert Hassinger, Clerk Justin Wood, and Members Linda Hassinger and Prabhu Venkataraman. It is noted that Chair David Robbins was absent for the November 4, 2019 hearing but remained eligible to vote on the DECISION with the submission of a Mullin Certification prior to deliberation on the decision (see EXHIBIT #14).

II. SUBMITTALS

The following items were submitted to the Board for its consideration of this application:

EXHIBIT 1. Original Application Submission, received October 9, 2019 to include the following:

- a. Application for a Special Permit, signed by Brian M. Foley (Applicant), dated October 8, 2019, date stamped by the Town Clerk on October 9, 2019 and date stamped received by the Planning Board on October 9, 2019, 1 page.

- b. Application for a Site Plan Approval, signed by Brian M. Foley (Applicant), dated October 8, 2019 and date stamped received by the Planning Board on October 9, 2019, 1 page.
- c. Certificate of Good Standing, signed by Beth Schrottman, dated October 8, 2019 and date stamped received by the Planning Board on October 9, 2019, 1 page.
- d. Abutters Listing for 13 Centennial Drive, Map 5, Lot 1G, dated July 3, 2019, signed by Tammy Kalinowski, Officer Manager and date stamped received by the Planning Board on October 9, 2019, 1 page.
- e. Waiver Request Form, date stamped received by the Planning Board on October 9, 2019, 3 pages.
- f. "Project Description/Narrative," dated October 8, 2019 and date stamped received by the Planning Board on October 9, 2019, 8 pages.

- EXHIBIT 2.** Plan: "Proposed Changes: MJ's Market, 13 Centennial Dr., Grafton, MA; Proposed Layout Rev B" dated October 7, 2019, prepared by Desjardins, LLC, and received by the Planning Board on October 9, 2019, 2 sheets (24" x 36").
- EXHIBIT 3.** Plan Set: "Existing Plans (As-Built)," dated May 10, 2002, prepared by LADA, P.C. Land Planners, and submitted to the Planning Board of October 9, 2019, 14 sheets (24" x 36").
- EXHIBIT 4.** Report: "Traffic Impact Study: Traffic Impact Analysis for the MJ's Market, Grafton, Massachusetts," prepared by Pare Corporation, dated October 2019, and date stamped received by the Planning Board on October 9, 2019, 49 pages.
- EXHIBIT 5.** "Hazardous & Consumable Materials List," date stamped received by the Planning Board on October 9, 2019, 2 pages.
- EXHIBIT 6.** "CCC License Status Snapshot," dated October 8, 2019 and received by the Planning Board on October 9, 2019, 4 pages.
- EXHIBIT 7.** Public Hearing Notice, date stamped by the Town Clerk on October 16, 2019, 1 page.
- EXHIBIT 8.** Purchase & Sales Agreement dated April 11, 2019 and date stamped received by the Planning Board on October 9, 2019, 2 pages.
- EXHIBIT 9.** Email from Nancy Connors, Health Department, dated October 21, 2019 and date stamped received by the Planning Board on October 21, 2019, 1 page.
- EXHIBIT 10.** Email from Katrina Koshivos, Zoning Board of Appeals, dated October 21, 2019 and date stamped received by the Planning Board on October 21, 2019, 1 page.
- EXHIBIT 11.** Email from Normand Crepeau, Jr., Police Chief, dated October 30, 2019 and date stamped received by the Planning Board on October 30, 2019, 1 page.
- EXHIBIT 12.** Public Hearing Continuance request form, signed by Heath Gaffney, dated November 4, 2019, received by the Planning Board on November 4, 2019 and date stamped by the Town Clerk on November 5, 2019, 1 page.
- EXHIBIT 13.** Public Hearing Sign-In Sheet dated November 25, 2019, 1 page.

- EXHIBIT 14.** Mullin Rule Certification, David Robbins, for public hearing on October 28, 2019, date stamped received by the Planning Board on November 25, 2019, 1 page.
- EXHIBIT 15.** “Host Community Agreement between MJ’s Market, Inc. and the Town of Grafton,” date stamped received by the Planning Board on November 25, 2019, 14 pages.
- EXHIBIT 16.** Letter from Ginny Sinkel Kremer, Esq., Town Counsel, to Tim McInerney, Town Administrator, regarding “Recreational Marijuana Establishments,” dated November 25, 2019, and date stamped received by the Planning Board on November 25, 2019, 2 pages.
- EXHIBIT 17.** Public Hearing Sign-In Sheet dated November 25, 2019, 1 page.

III. DISCUSSION

On November 4, 2019 Vice Chair Mr. Hassinger opened the hearing. Mr. Wood read the Legal Notice. Present for the hearing were Heath Gaffney, Chief Executive Officer of MJ’s Market, Brian Foley, Chief Operation Officer of MJ’s Market, legal counsel Jon Capano of Smith Costello and Crawford, and Amy Archer, Traffic Engineer with Pare Corporation.

Mr. Gaffney summarized the project. He said that the building will not be changed structurally, and renovations will include removing or covering up the windows in the rear of the building for growing and safety reasons. He said they will also be changing the fencing to include a locked gate that will enclose employee parking and delivery area. He said they plan to go above and beyond the state regulations for security. There will be 105 parking spaces, with 75 spaces being dedicated for the customer parking and the rest for employees within the fenced in area. The Board and Applicant discussed that final details of the fencing and gates could be reviewed as a condition in the decision.

Attorney Capano stated that the marijuana plant is very sensitive, cultivation requires keeping air out and careful monitoring. There will be charcoal scrubbing and burning, so odor will be minimal to none. He noted that under 935 CMR, the Cannabis Control Commission (CCC) will inspect the facility and MJ’s Market will not be allowed to open until meets their standards; this includes odor and waste control.

Mr. Foley said he spoke with Paul Cournoyer of Sewer Department regarding the wastewater that will be generated by the facility. He said that growing will be conducted indoors, in a hydroponic and controlled environment. He said the facility will generate the equivalent of 5-10 persons into the sewer system. He said it was his opinion that the Town would not know the facility exists.

Mr. Foley stated that they submitted a list of hazardous materials, and that everything on that list is “very benign,” with the exception of gases for extraction, which are a closed loop and when those gases are no longer effective, they are recycled per state guidelines. He said they will be using specialized cleaners, which are harmless, to clean anything in the labs.

Mr. Gaffney stated that in regards to air pollution, the ventilation system is a closed loop system. If there is any air to be released, then air would go through a carbon filtration system, approved by CCC regulations. He said they are also concerned about the air coming in through the heating, as the product must test clean, as well.

The Board discussed how to ensure that there are proper odor controls in place. The Town Planner stated that at this stage of permitting, air systems have not been designed yet and that it is not practical to retain peer review services for evaluating the system until construction plans have been prepared. He stated the Board could include a condition to review plans prior to issuance of a building permit. He also noted that the Cannabis Control Commission is required to approve the air circulation system and odor control systems as part of final licensing of the facility. He stated that the decision could be written to require materials be provided to the Board at the time of a building permit submission to verify the design.

Mr. Foley stated that they will have a phased approach to this project and that they have applied for a 2,500 square foot grow operation. He said that the submitted plans show proposed future expansion for more growth. He added that the Building Inspector informed him that there was a detailed step process with the building permit, so there was an opportunity for the Board to include their requirement of being notified of system designs that currently have not been designed. He said without a Special Permit, they will not be buying the proposed building.

Mr. Gaffney stated that there seems to usually be overabundance of grow facilities; their strategic goal may be to focus on processing and retailing instead of expanding their grow facility in the future.

Mr. Foley stated that 5,000 ft of space yields about 5 crops/year, which equates to 10-11 thousand pounds if optimized. They hope to grow about half that. It takes 7,000 lbs/year to sustain a retail store. Mr. Foley said they will be obtaining the extra product from outside sources, since it takes about 6 weeks or 45 days for plants to reach maturity before they can be harvested.

Mr. Gaffney stated that they will employ approximately 40 employees, all of whom would be cleared by the CCC. Mr. Foley added that they plan to employ local as much as possible; the host agreement will outline the details.

Attorney Capano stated that there are no longer massive swells of customers when a retail site opens, like what had occurred in Leicester and Northampton. He said the novelty is gone now that there are about 28 retailers open. He said that when MJ's Market opens there would probably be about 100+ retailers in operation.

The Board and the Applicant discussed facility security. Mr. Foley said there are typically three checkpoints: before entering the building, in the waiting area and at the point of sale. Mr. Gaffney stated that they will be monitoring the parking lot through security cameras. Mr. Gaffney stated that he had met with the Police Chief, who said they need to have an in-depth conversation once the plans are all laid out, etc.

Mr. Laydon stated that the Board's decision could include a condition that before a building permit is issued, a final security plan be reviewed. He also said that site details such as the height of the delivery garage could be reviewed as well. Mr. Gaffney stated that vans would be the delivery vehicles. Mr. Laydon said that the decision could include a condition requiring that a parking plan that identifies the delivery space and movement plan for the van deliveries be submitted for the Board to review.

Mr. Laydon stated that the decision could include a condition requiring that lighting, fencing, gates and alarms be submitted to the Board for review.

The Board and the Applicant discussed the hours of operation. Mr. Laydon stated that the Bylaw allows no customers or deliveries between 8 p.m. to 8 a.m. He stated that there was the opportunity for the Board to review hours of operation as a zoning amendment at the Spring 2020 Town Meeting.

Amy Archer, the Applicant's traffic engineer, stated that there is adequate sight distance at the Centennial Drive and Pine Street intersection. She said there are no speed limits posted so assumed a de facto speed limit of 35 mph; traffic is exceeding that limit, speeds are high. She said they recommend posting a speed limit along Centech Blvd/Pine St. Regarding crashes, there were 11 incidents over latest three-year period, only one with injuries. She said the report concluded that there are no trends of incidents that need to be mitigated. She said they performed a traffic count study, during AM and PM peaks for weekdays and mid-day peak for Saturday; determined that the roadways can adequately accommodate the traffic increase of this site.

Raymond Foley of 8 Centennial Drive stated he was interested in the foot traffic or any non-driving traffic along Centennial Drive that would be generated by the project.

Mr. Gaffney stated that since there is no residential housing nearby, they did not consider walking to the site as viable. He said that the location and proximity of the commuter rail station would result in vehicle trips and not pedestrians.

Mr. Laydon stated that from Staff's perspective, for this application, it was not considered that there would be a measurable pedestrian circulation, due to lack of existing residences and even the distances from the businesses within CenTech Park.

Mr. Hassinger brought up the limit of two retailers, questioning where in the process the limit will be applied, given that the process includes the Select Board, the Planning Board as the Special Permit Granting Authority, the CCC licensing procedures, and the issuance of a building permit. The Town Planner discussed the CCC and Town process and how it may impact licensing of retail facilities. Mr. Hassinger stated he wanted advice from Town Counsel on the limitation of retail businesses, how is the limitation of marijuana establishments going to be implemented, and what role does the Planning Board have in the permitting of retail facilities. Mr. Hassinger felt it better to clarify the process in advance of any issues, fights or lawsuits.

The Board voted to continue the hearing to November 25, 2019 at 7:30 p.m. and requested the Town Planner to start drafting a decision and to submit the request for a legal opinion from Town Counsel.

On November 25, 2019 Chair Mr. Robbins opened the continued hearing. Mr. Laydon reviewed the previous hearing and the Board's request for an opinion from Town Counsel. He stated that a letter was received from Town Counsel late that afternoon, which was forwarded to the Board (Exhibit 16). Mr. Laydon summarized the letter stating that Town Counsel was of the opinion the limitation of the number of retail businesses was tied to the CCC's communication to the Town of Grafton that an application has been submitted and requesting the Town comment on compliance with local bylaws and regulations.

The Board discussed the Planning Board's review process and how conditions in its decision may influence process. Mr. Hassinger asked if it were possible to have local licensing, such as is currently for liquor licensing. Mr. Laydon said local licensing could occur with either the Board of Health or the Select Board. Mrs. Hassinger said to pass on this suggestion to the selectmen, if they want to have local licensing.

Mr. Laydon said that the hours of operation on the application list 10 a.m. to 11 pm M-Sat, with Sunday being noon to 9 p.m. According to Town Bylaws, a business is not allowed to be open from 8 p.m. to 8 a.m., so Condition 1 limits the hours. Mr. Laydon stated that a zoning bylaw change would be needed to allow the hours to be expanded beyond those limits.

Mr. Laydon stated that the only thing that's missing from the draft decision is the summary portion of the preceding hearing. The Board can designate two board members to review and sign off that part afterwards.

The Board asked if anyone from the Audience wanted to speak on the application. There was no input from the audience.

The Board voted unanimously to close the public hearing and to review the draft decision. Following the review of the decision and a formal vote on the Findings, Waiver, and Condition Section, the Board voted to designate two members of the Board to review the Discussion Section of this decision for accuracy and consistency with the decision prior to authorizing the Town Planner to sign and file the decision. The Board designated Mr. Robbins and Mr. Hassinger to conduct the review.

IV. FINDINGS

At their meeting of November 25, 2019 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hassinger, seconded by Mrs. Hassinger) voted 5-0 to make the following Findings:

- F1.)** That determinations regarding the following findings are based upon the documents and plans identified in this Decision, as well as the information and EXHIBITS submitted and presented in association with the Application.
- F2.)** That determinations regarding the following findings are also predicated upon satisfactory completion of the work and site improvements shown on the Plans and maintenance of the Site in accordance with this Decision, as well as all applicable Federal, State and Local regulations, except where modified by this Decision.
- F3.)** That the 6.01-acre site is located in an Office / Light Industrial (OLI) zoning district. The site is not located within the Water Supply Protection Overlay District. The Applicant is seeking a Special Permit for a Marijuana Establishment, including but not limited to a Registered Medical Marijuana Dispensary, Marijuana Cultivator, Marijuana Product Manufacturer, Marijuana Retailer and Marijuana Transporter. Said uses are allowed with the issuance of a Special Permit in an OLI zone and is further subject to Site Plan Approval as required by the Zoning By-law.
- F4.)** For the purposes of the Zoning Bylaw, a Registered Marijuana Dispensary is not considered a pharmaceutical use pursuant to Section 9.4.B and therefore Section 9 entitled Campus Development Overlay is not applicable as it related to the use. Other applicable section of Section 9 such as but not limited to setback, signage, and design guidelines do apply.

- F5.)** The proposed scope of work involves the renovation of the existing 15,000 sq. ft. office building for the retail cannabis dispensary, and including cultivation, manufacturing, processing, and transportation. (see Exhibits #1, #2, and #3).
- F6.)** The Town of Grafton Select Board signed a Host Community Agreement with MJ's Market to operate a Marijuana Establishment as taken by vote on June 11, 2019 (see exhibit #15).
- F7.)** Testimony was received by the Applicant that a Community Outreach Meeting was held on August 2, 2019 and that their application to the Cannabis Control Commission was submitted on September 17, 2019 (Exhibit #6).
- F8.)** The proposed hours of operation for the retail operation will be 10 AM to 11 PM Monday through Saturday and Noon to 9 PM on Sunday. The Applicant stated that cultivation and manufacturing operations may occur outside of the retail hours as needed (Exhibit #1).
- F9.)** The Zoning Bylaw, in Section 5.10.4.b states "The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall a facility be open to the public, nor shall any sale or other distribution of marijuana occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m."
- F10.)** The maximum number of employees for a single shift shall be 20, excluding executive staff, comprised of the following; 10 for cultivation and manufacturing, 4 customer services, 2 sales, and up to 4 in security depending on customer volume (Exhibit 1.f).
- F11.)** The Applicant requested two waivers as part of the application submission. A waiver was requested from Section 1.3.3.3.d pertaining to the submission of a complete site plan (see Exhibit #1e). A second waiver was requested from the submission of a fully compliant traffic study (see Exhibits #1.e and #4). The Applicant stated their request is due to their application proposing the renovation of the existing structure and that no changes are being made to the site that impact the footprint of the building or the parking area. The Applicant requested a waiver from a fully compliant traffic study due to remote location of the site and ample on-site parking.
- F12.)** That during the public hearing the Board and the Applicant discussed the access to the site, site circulation, fencing, and the loading area. The Applicant noted that they will be reviewing the security plans with the Police Department, as many of the security provisions include internal systems that have not been finalized.
- F13.)** That during the public hearing the Board received a legal opinion from Town Counsel Ginny Kremmer regarding the applicability of the Town's General Bylaw Article 39 Section 2 that limited the number of retail establishments permitted to Two (2) (Exhibit 16).

At their meeting of November 25, 2019 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by

Mr. Hassinger, seconded by Mrs. Hassinger) voted 5-0 to make the following Findings with regard to the specific issues listed in Section 1.5.5 of the ZBL:

- F14.)** With regard to Section 1.5.5(a), the Board finds that based on Exhibits and Findings stated within this Decision, ingress and egress to the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe, is adequate. The Board notes that project proposes the renovation of an existing office building within the Centech Park Industrial Park and that no changes to the site are being proposed.
- F15.)** With regard to Section 1.5.5(b), the Board finds that based on the Exhibits and the Findings stated within this Decision, that off-street parking is adequate. The Board further finds with regard to Section 1.5.5(b) that the economic, noise, glare, or odor effects of the special permit on adjoining properties and properties generally in the district are satisfactory. The Board notes that the site is located within an Office / Light Industrial (OLI) and the Campus Development Overlay District (CDOD) zones as are the abutting properties. Concerning odor associated with the cultivation and manufacturer of marijuana, the Applicant stated they would use a combustion process as part of the air circulation system to eliminate odors prior to the release of air to the exterior of the building. Since the system has not been designed, no documentation could be provided to the Board.
- F16.)** With regard to Section 1.5.5(c), the Board finds that based on the Exhibits and the Findings stated within this Decision, that refuse collection or disposal and service areas are satisfactory. The Board notes that the Applicant addressed the refuse collection by noting that they will follow disposal requirements of the Cannabis Control Commission.
- F17.)** With regard to Section 1.5.5(d), the Board finds that based on the Exhibits and the Findings stated within this Decision, screening and buffering with reference to type, dimensions and character are adequate. The Board notes that the project involves the internal renovation of the existing building and that no changes are being made to the footprint of the building. Furthermore, no change is proposed to the parking area and existing vegetation will remain. No public comment was received on this matter.
- F18.)** With regard to Section 1.5.5(e), the Board finds and based upon on the Exhibits and the Findings stated within this Decision, signs and exterior lighting with reference to glare, traffic safety, economic effect is compatible and in harmony with properties in the district. One sign is proposed on the building and one at the entrance, both signs replace existing signs and will comply with the bylaw (Exhibit #2). Exterior lighting, as previously approved and installed, will remain consisting of eight (8) lamp posts and wall mounted lights at building entrances and secondary doors (see EXHIBITS #3).
- F19.)** With regard to Section 1.5.5(f), the Board finds that based upon on the Exhibits and the Findings stated within this Decision, the required yards and other open space requirements are adequate (see EXHIBIT #28).

- F20.)** With regard to Section 1.5.5(g), the Board finds that based upon on the Exhibits and the Findings stated within this Decision, that the proposed use of the facility is generally compatible with adjacent properties and other properties in the Office / Light Industrial (OLI) and the Campus Development Overlay District (CDOD) zones. The site is located in Centech Park which contains industrial, commercial, professional uses with similar intensity of use than the proposed Marijuana Establishment. No public comment was received regarding this condition for granting.
- F21.)** With regard to Section 1.5.5(h), the Board finds that based upon on the Exhibits and the Findings stated within this Decision and upon satisfying and complying with all applicable requirements of the Massachusetts DEP, Grafton Water District, and all other applicable agencies, the proposed facility will not have any significant adverse impact on any public or private water supply.
- F22.)** With regard to Section 1.5.5(i), the Board finds that the site is not located within the Water Supply Protection Overlay District. The Board further finds that, based upon on the Exhibits and the Findings stated within this Decision, and upon satisfying and complying with all applicable requirements of the Massachusetts DEP, Grafton Water District, and all other applicable agencies, there will not be any significant adverse impact upon municipal water supplies.
- F23.)** With regard to Section 1.5.5(j), the Board finds that important historic, cultural and scenic landscapes are protected. It was noted that the site is located within an existing industrial park and involves the renovation of an existing structure for a construction of a Marijuana Establishment, including but not limited to a Registered Medical Marijuana Dispensary, Marijuana Cultivator, Marijuana Product Manufacturer, Marijuana Retailer and Marijuana Transporter and therefore does not impact any historic, cultural, or scenic resource. No comments were received from potentially interested parties in this matter.
- F24.)** With regard to Section 5.10.7.a, the Board finds that the proposed Marijuana Establishment has satisfied that it is compliance with M.G.L. Chapter 94G and specifically, the Board finds that the proposed Marijuana Establishment is located greater than 500 feet a school, daycare center, or any facility in which children commonly congregate.

At their meeting of November 25, 2019 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hassinger, seconded by Mrs. Hassinger) voted 5-0 to make the following Findings:

- F25.)** That Section 5.10.8.a of the ZBL requires that the Applicant meet all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will as proposed be in compliance with all applicable state laws and regulations.
- F26.)** That Section 5.10.8.c of the ZBL requires the Applicant provide copies of registrations and licenses and a copy of a signed Host Agreement with the Town of Grafton, in accordance with M.G.L. Chapter 94G and subsequent regulations, to the Building Commissioner prior to the issuance of a Certificate of Occupancy.

- F27.) That Section 5.10.8.d of the ZBL requires that the facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.
- F28.) That Section 5.10.8.e of the ZBL requires that the facility provide a secure waiting area.
- F29.) That Section 5.10.8.f of the ZBL requires that the facility provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is adequately secured in enclosed, locked facilities
- F30.) That Section 5.10.8.g of the ZBL requires that the facility Adequately addresses issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the facility, and adequately mitigates the impacts of vehicular and pedestrian traffic on neighboring uses

At their meeting of November 25, 2019 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hassinger, seconded by Mrs. Hassinger) voted 5-0 to make the following Findings:

- F31.) That Section 1.3.3.2 of the ZBL requires that the procedure for the Site Plan Review, as defined in the ZBL, be incorporated into the procedure for reviewing Special Permits.
- F32.) That Section 1.3.3.3 of the ZBL defines the procedure for Site Plan Review, including a description of the plans and materials to be submitted to the Planning Board.
- F33.) The Board finds that Section 1.3.3.4 of the ZBL allows an applicant to request waivers from certain requirements of the Site Plan Review procedure. The Board finds that the Applicant did not submit waiver requests from Section 1.3.3 of the Grafton Zoning By-Law (see EXHIBIT #1).

V. WAIVERS

W1) At their meeting of November 25, 2019, after due consideration of the Exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hassinger, seconded by Mrs. Hassinger) voted 5-0 to grant the Applicant's request for waivers from the requirements of *Section 1.3.3.3(d)* of the ZBL with regard to the preparation of a site plan for the reasons stated within the Findings of this Decision.

W2) At their meeting of November 25, 2019, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hassinger, seconded by Mrs. Hassinger) voted 5-0 in favor to grant the Applicant's request for a waiver from the requirements of *Section 8.2 – Traffic Study*.

VI DECISION

At their meeting of November 25, 2019 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hassinger, seconded by Mrs. Hassinger) voted 5-0 to **APPROVE** the Special Permit (SP 2019-16) & Site Plan Approval with the following conditions:

A. Standard Conditions

1. This Special Permit and Site Plan Approval specifically authorizes the construction associated with the renovation of the existing building at 13 Millennium Drive for a Marijuana Establishment, including but not limited to a Registered Medical Marijuana Dispensary, Marijuana Cultivator, Marijuana Product Manufacturer, Marijuana Retailer and Marijuana Transporter as described within the EXHIBITS and FINDINGS of this Decision (EXHIBITS #1, #2, and #3).
2. The work authorized by this Special Permit and Site Plan Approval shall be solely for the purposes noted within Condition #A1 of this Decision. Changes to plan presented in this Application may be made only upon authorization from the Planning Board. Such authorization shall only be granted provided the Board finds that any change requested by the Applicant is not substantially different than the plan presented within the EXHIBITS of this Decision, and is consistent with the intent and purpose of this Decision. Requests for such change(s) shall be submitted in writing to the Planning Board.
3. Signage for, and associated with, the use authorized by this Decision shall be installed in accordance with this decision, and conform to, the Town of Grafton Zoning By-law. This Decision shall not be construed as approving or authorizing any directional such signage, which may be permitted in conformance with the Zoning By-law.
4. The Applicant shall submit a lighting plan denoting any changes in fixtures from Sheet L5 submitted as Exhibit 3 for review and approval by the Board prior to installation, except lighting that is required by code and determined necessary by the Inspector of Buildings for emergency egress of the structure.
5. In accordance with Section 1.5.8 of the ZBL, this Special Permit and Site Plan Approval shall lapse within one (1) year from the date of the expiration of the appeal period if substantial use, or construction, has not been commenced except in accordance with the law. Any request for an extension of said period of validity shall be considered a Modification of this Special Permit and Site Plan Approval, and such request shall be filed and reviewed in accordance with the procedure specified in Section 1.5 of the ZBL.
6. This Special Permit and Site Plan Approval shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and provided the Planning Board and the Building Department with a copy of such recording, including the WDRD Book and Page Number and/or Instrument Number.

7. By recording this Special Permit and Site Plan Approval Decision in the WDRD, the Applicant agrees to and accepts the conditions set forth in this Special Permit and Site Plan Approval Decision.

B. Conditions to be Met Prior to Issuance of Building Permit

1. The Applicant shall submit a copy of the Cannabis Control Commission's Provisional License and any supporting documents indicating approval to proceed for review for consistency with this decision. If the Board determines that the material submitted is inconsistent with the decision, the Applicant may be required to modify this decision pursuant to Condition A.2.
2. The Applicant shall submit to the Planning Board for its review and consultation with the Building Department a copy of the air purification plan to ensure compliance with Section 1.5.5(b) of the Zoning By-laws regarding odor for review for consistency with this decision. If the Board determines that the material submitted is inconsistent with the decision, the Applicant may be required to modify this decision pursuant to Condition A.2.
3. The Applicant shall submit a final security plan, including parking plan details, following approval of the Cannabis Control Commission and the Grafton Police Department, to the Planning Board for review for consistency with this decision. If the Board determines that the material submitted is inconsistent with the decision, the Applicant may be required to modify this decision pursuant to Condition A.2.

C. Conditions to be Met During Construction

1. Hours of construction and site work external to the building shall only occur Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m. and Saturdays from 8:00 a.m. and 5:00 p.m. There shall be no construction activity on Sundays or state and federal holidays.
2. All construction shall be performed in accordance with the approved Plans, as well as all applicable Federal, State and Local regulations, and shall be accomplished so as not to discharge any pollutants or siltation into waterways or resource areas during construction, and after completion, from the site and its associated improvements.

D. Conditions to be Met After Construction

1. Hours of operation for the uses authorized by this Decision shall be limited as follows: for the retail sales shall be 10:00 AM to 8:00 PM Monday through Saturday and Sunday Noon to 8:00 PM, but in no event shall a facility be open to the public, nor shall any sale or other distribution of marijuana occur upon the premises or via delivery from the premises, between the hours of 8:00 PM. and 8:00 AM (Finding 9). Hours of operation may be amended pursuant to Condition A.2.
2. No sign may be illuminated more than thirty (30) minutes after closing of any store or business in accordance with Section 4.4.2 of the Grafton Zoning By-Law.

VII. RECORD OF VOTE

<u>David Robbins, Chairman</u>	<u>AYE</u>	<u>Linda Hassinger, Member</u>	<u>AYE</u>
<u>Robert Hassinger, Vice Chairman</u>	<u>AYE</u>	<u>Prabhu Venkataraman, Member</u>	<u>AYE</u>
<u>Justin Wood, Clerk</u>	<u>AYE</u>		

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD



Joseph Laydon, Town Planner

12-10-2019

Date

- cc: Applicant / Owner
- Building Inspector
 - Assessors
 - Conservation Commission

To Whom It May Concern: This is to certify and verify that the twenty (20) days have elapsed since this decision was filed in the Town Clerk's office and that no such appeals have been filed in the reference to the same, or that, if such appeal has been filed, it has been dismissed or denied.

Kandy Lavallee, Town Clerk

Date