

## **Plainfield Zoning Board of Appeals**

Minutes

January 17, 2019

**Members Present:** Peg Keller, Chair, Joan Wattman, ZB permanent member and Bill Latimer, ZB Alternate, sitting in on account of permanent member Ms. Irvine's absence. Also attending: Chris Roos, President and CEO of 27 Broom Street LLC, Nicholas Rosati, COO of 27 Broom Street LLC, Matthew Shippee, Broom Street abutter, Aimee Bell from Fuss and O'Neill, Engineer for applicant, Kelly Bitov, Legal Counsel for 27 Broom St. LLC, Thomas Scanlon, Head of Security, 27 Broom St. LLC, Briony Angus of Tighe and Bond representing the Town ZBA in the peer engineer review capacity, Martin Downey, Timothy Rooke, both of 27 Broom St. LLC, Howard Bronstein, Chair of the Plainfield Selectboard and Judy Williams, Chair of the Plainfield Conservation Commission and 11 citizens/audience members.

### **Call to Order:**

Chair Keller called the meeting to order at 7:00 p.m. with the presence of a quorum. Members signed the Permit Approval for the Silberberg Special Permit request. Minutes from the December 17, 2018 meeting were approved as submitted. Everyone present introduced themselves and their affiliations.

### **7:10 p.m. 27 Broom Street LLC / Continuation of Public Hearing**

Chair Keller opened the continuation of the public hearing on the application of 27 Broom Street LLC for a marijuana cultivation facility. Chair Keller summarized that this is the fourth hearing on this application. She described the information that had been requested and received, and explained to the audience that the town was utilizing the services of Tighe and Bond as peer reviewers for engineering purposes. She asked Ms. Bell to give a general overview of the project parameters for those attending for the first time. Chair Keller said to Mr. Matthew Shippee that he should restate his objections to the project publicly, as the email he sent to the Chair was considered ex parte communication. Chair Keller updated the audience that the applicant had appeared before the Conservation Commission and the Board of Health since the last ZB meeting. The Request for Determination filed with the Conservation Commission and a site visit resulted in the ConsCom confirming that the wetlands were correctly delineated and no work would take place within the buffer zone. No conditions were attached.

Chair Keller then proceeded to ask the Board members if they had any concerns they wanted to express about any particulars of the project. If they did not, she proposed working through the draft of potential conditions that would be associated with an approval of the special permit. If they said, for example, however, that they were disinclined to approve the outdoor grow area, the applicant would be given the opportunity to come back with an alternate plan, before the

public hearing portion of the process ended. If the public hearing portion were to be closed, then a vote taken to that effect, the applicant would have to begin the process all over. Both members said they were inclined to approve the special permit as applied for **with** conditions and were agreeable to working through the list to identify final conditions. Prior to doing that, the Chair asked if there were general questions from the audience.

- Ms. Hatchett asked if the existing buildings would be repaired. Mr. Roos said he would like to do that in the long term, but the budget does not allow for that at this time.
- Ms. Ryan asked about the odor to be generated by the indoor facility. Mr. Roos said atomizers would be installed inside the facility to control odor and exhaust fans would be installed on the east side of the building, away from any abutters.
- Ms. McMahon asked about the size of the facility and the length of the growing season. Mr. Roos said 120,000 square foot total, with 90,000 sq. ft. for outdoor cultivation; and a 6 month growing season.
- Mr. Shippee asked if any existing buildings were to be removed would the applicant have to return to the Board. Chair Keller replied in the affirmative.

Chair Keller proceeded to review the Draft Permit Conditions which were initiated by Pioneer Valley Planning Commission as a standard template for construction projects, with comments added by Tighe and Bond and KP Law, Town Counsel, pertinent to the application at hand. (Attached to these minutes).

During the discussion, Mr. Shippee asked why a “suburban” noise level was used, rather than a “rural” standard. Ms. Angus replied that it is a standard commonly used by Mass DEP for modeling. She said modeling could be conducted now, or the noise could be monitored on an on-going basis to determine if DEP standards were being exceeded. She explained that the suburban vs. rural designation is somewhat irrelevant, as the modeling would document existing ambient levels, compare the mechanical specifications for the equipment being used (exhaust fans), then measurements taken after installation/operation. Mr. Shippee also asked if the evaluation on the odor control could be applied to the indoor facility, not just the exterior grow area. Discussion followed. He said if odor is detected, how would the Board know where it was emanating from (indoor facility or exterior grow area). The Board responded that the Condition numbered 66 stipulated that the “conditional approval” be only for the exterior grow, as the potential for mitigation on the indoor facility was more feasible than the outdoor area.

The applicant was then asked to comment on the suggested conditions. Mr. Roos and Attorney Bitov asked that #9 in the conditions section add *and the State* to the last sentence. They said #1 under Pre-Construction should be Provisional vs. Final license. There was discussion that #2 is the Contractor Responsibility (Stormwater Pollution Prevention Plan). Project completion was agreed to be limited to 18 months. Dumpster location and potential screening were noted. #65 was agreed to be abutters within 1500 ft. will be notified at least 10 days in advance of exterior harvest activity. #66 stated that no odor either from the indoor or exterior operations should be

detectable beyond the property boundary and that the ZBA would designate an authority to receive any complaints for the first year of operation. If any complaints are received, the applicant will be required to provide mitigation. Because odor generation is anticipated from the outdoor grow area, this component of the project would be conditionally approved. If complaints are received after year one, mitigation would be required. An additional year would be allowed to ascertain if the mitigation has been successful. If it were determined that it has not been successful, the approval for the outdoor grow area would be rescinded. The applicant asked that the time period for evaluation begin at the start of a growing season. Regarding #71 Mr. Roos asked that more than one person in his organization be identified to be contacted, in case he himself was unavailable. Atty. Bitov asked for clarification on the entity that would be receiving complaints and the methodology to be used in monitoring the process. Chair Keller said she would be recommending the Board of Health be the designated agent, but those details have not been finalized yet. Ms. Angus said standards do exist for quantifying odor that can be applied to this process, such as those used for landfills. Atty. Bitov asked if the entire project would be conditionally approved, or just the exterior grow area. Chair Keller said, just the outdoor area. Mr. Roos said that the indoor and outdoor have different State licenses. It was agreed that the noise levels should be measured at the beginning of the project and at 6 month intervals.

After a full review of all the items, there were no further comments from the audience, the applicant, the direct abutter or the Board. Therefore, at 9:15 p.m. the Chair entertained a motion to close the public hearing. Member Latimer made the motion, which was seconded by Member Wattman. There was no further discussion. The vote in favor was unanimous.

Member Latimer then made a motion to approve the Special Permit and Site Plan request by the applicant, with the conditions as discussed. Member Wattman seconded the motion and the vote in favor was unanimous. Chair Keller said she would produce a clean copy of the approval for submission to the Town Clerk and all interested parties.

**Adjourn/** There being no further business to discuss, the meeting adjourned at 9:20 p.m.

Respectfully submitted, Peg Keller