

**Town of Plainfield
ZONING BOARD OF APPEALS**

Special Permit & Site Plan Review Approval

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Applicant: Christopher Roos of 26 Brookside Drive, Feeding Hills, Massachusetts on behalf of 27 Broom Street LLC
Property Owner: 27 Broom Street LLC
Property Address: 27 Broom Street, Plainfield Massachusetts
Filing Date with Town Clerk: August 26, 2018
Legal Notices Published: September 26, 2018 and October 3, 2018
Public Hearing Opened: October 18, 2018/ with 3 continuations
Public Hearing Closed: January 17, 2019
Decision Meeting Date: January 17, 2019

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The Applicant requested that the Zoning Board of Appeals approve a Special Permit Application under Section 4.2 of the Plainfield Zoning Bylaws, and a Site Plan Review as required in the Town of Plainfield Zoning Board of Appeals Rules and Regulations to allow for construction of an approximately 16,000 square foot marijuana cultivation and processing facility, including a greenhouse, a 120,000 square foot fenced and secured outdoor grow area, which includes 90,000 square feet of actual grow area and surrounding work area) on-site parking, storm water drainage and detention basin and an on-site septic system.

DECISION

Following their conducting of 4 Public Hearings, at publicly posted meetings, the Plainfield Zoning Board of Appeals voted 3 (three) in favor, 0 (zero) opposed, 0 (zero) absent/recused, on a motion to APPROVE the Special Permit application identified above, with conditions.

Any person who feels aggrieved as a result of the Board's actions has the right of court appeal if that appeal is filed with the Court within 20 days of the filing of this decision with the Town Clerk's Office of the Town of Plainfield, as provided in M.G.L. c. 40A, §17.

On a motion to approve the Special Permit:

Roll Call Vote:	Peg Keller	-	Yes/No/Abstain
	Joan Wattman	-	Yes/No/Abstain
	Ann Irvine	-	Yes/No/Abstain/ Absent
	Alternate Members:		
	William Latimer	-	Yes/No/Abstain/ Voting as Permanent Member

SPECIAL PERMIT FINDINGS

The Plainfield Zoning Bylaw requires that all of the following Findings must be made relative to the approval of this Special Permit Application:

1. The use is not detrimental to the Town or neighborhood and is in harmony with the general purpose and intent of this Bylaw as it complies with Special Permit Criteria and the Zoning Board of Appeals Rule and Regulations Section. The Applicant has proposed mitigation measures for potential detrimental impacts, and the conditions outlined in this Decision include monitoring and reporting provisions that will allow the ZBA to monitor project operations and require additional mitigation if warranted.
2. The Board finds that adequate provisions will be made in the following areas:
 - a. Off-street parking and loading will be accommodated on-site during construction activities and no parking or stacking will occur on the public street.
 - b. Post construction, the project will generate minimal traffic as outlined in the Applicant's Traffic Impact Study. A waiver for a full traffic study was approved.
 - c. This project has been reviewed by the ZBA's peer review engineer Tighe and Bond, and the Town's Conservation Commission, Board of Health, Police Department and Building Inspector and they find that the proposed project elements and limitations will mitigate any harm to public health, safety or comfort by reason of transmission or emission of radiation, fumes, dust, gas, smoke, or poisons; by reason of vibrations, noise, fire, explosion, or hazard; or by tending to pollute water.
 - d. The project provides adequate security measures so that the storage and/or location of cultivation is adequately secured.
 - e. The project proposes vegetative screening to minimize visual impacts to abutting properties. Site fencing is proposed to include mesh fabric to further minimize visual impacts.
 - f. The project will not result in impacts to on-site wetlands subject to regulation by the Plainfield Conservation Commission pursuant to the MA Wetlands Protection Act.

- g. There are no known historic features on the site.
 - h. The project is not anticipated to result in adverse noise effects due to the configuration of the facility, distance of the facility to abutters, and remaining features on-site (i.e. existing barn which will be retained on the western property edge) that will help to provide a noise buffer.
 - i. The project incorporates a mitigation system to address odor control in the indoor marijuana processing facility.
 - j. Odor generation from the exterior grow area is anticipated. The goal of the permit approval is that no odor from the marijuana cultivation, harvesting or processing activities be detectable by a person with an unimpaired sense of smell beyond the property boundary line or at any adjacent use or property. The ZBA finds that conditions are necessary to ensure this goal is met, and such conditions are included in this Special Permit.
 - k. Site storm water management is being accommodated and has been approved by the ZBA's peer review engineer.
 - l. The property is not located in any identified flood zone and the site storm water management plan has been designed to prevent increased run-off from adversely affecting abutting properties and natural resources.
3. Special Permits subject to Zoning Board of Appeals issuance may also be subject to the information requirements and guidelines required in the Rules and Regulations of said Board, dated July 1, 1988, or as amended thereafter.

CONDITIONS

In an effort to ensure and protect the health, safety, and well being of all abutters, area residents, and the Applicant, the approval of this Special Permit is subject to the satisfactory compliance with and completion of the following the conditions:

General

- 1. This Special Permit is issued for the project as described on page 1 and accordance to plans submitted by Fuss and O'Neill, dated December 12, 2018.
- 2. Any change, extension or alteration of such use/structure shall require a new Special Permit, or a revision to this Special Permit. Unauthorized deviations from the approved Special Permit may result in the Zoning Board of Appeals seeking the issuance of a Cease and Desist Order until the deviation is addressed. Violation of any condition contained

herein or failure to comply with the approved plan shall subject the Applicant to a zoning enforcement action in accordance with the remedies set forth in M.G.L. c. 40A.

3. This special permit shall not take effect until a copy of the decision bearing the certification of the Town Clerk that 20 days have elapsed after the decision has been filed in the office of the Town Clerk and either that no appeal has been filed or an appeal has been filed within such time is recorded in the Hampshire County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. Any person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.
4. This approval shall lapse and become null and void if the construction permitted by this Special Permit has not commenced within two (2) years of the date of its approval. The Zoning Board of Appeals may grant extensions for good cause, upon written request by the applicant provided:
 - a. said request is submitted prior to the expiration of this Approval, and
 - b. said approval requires the affirmative vote of a majority of the full Board taken at a public meeting and a public hearing is required.
5. This special permit shall be non-transferable to either another marijuana establishment owner or another site or parcel.
6. The marijuana establishment shall be required to remove all material, plants, equipment and other paraphernalia prior to any surrendering of its state registration/license, or ceasing of operations.
7. At least 30 days prior to any sale and/or transfer of ownership of the property and/or project, the current owner of the property and/or project (or his/her/their successor or assigns) shall notify the Zoning Board of Appeals, in writing, as to the identification and contact information of the prospective purchaser.
8. All work authorized under this Special Permit shall be in accordance with:
 - a. the Application, supportive materials and testimony submitted by the Applicant and its representative to the Zoning Board of Appeals, except to the extent modified by the terms of this Decision.
 - b. the approved plans, as submitted on December 12, 2018.
9. Members or agents of the Zoning Board of Appeals shall have the right to enter the site at reasonable times, upon prior notice, to gather all information, measurements, photographs or other materials needed to ensure compliance with this Special Permit. Members or agents of the Zoning Board of Appeals entering onto the site for these purposes shall comply with all safety rules, regulations and directives of the Applicant, the Applicant's contractors and the Massachusetts Cannabis Control Commission.

10. The Zoning Board of Appeals retains its jurisdiction and the right to, on its own motion, modify, amend, rescind or revoke this Special Permit after holding a public hearing in accordance with Chapter 40A, Section 9, when it believes that there is material noncompliance with the terms of this Special Permit.
11. Litter and debris in the parking lot and site shall be removed regularly to maintain a neat and orderly appearance. Daily cleanup and housekeeping is required for materials susceptible to wind, rain or other natural means of relocation. Other general cleanup and housekeeping shall occur weekly at a minimum.
12. All exterior artificial lighting shall be so arranged so that all direct rays from such lighting shall fall entirely within the site.
13. During the hours that the facility is not operating, exterior lighting shall be reduced to only that which is necessary for security purposes.
14. Adequate provisions shall be made on-site for the parking, storing, and stacking of delivery vehicles/trucks, including off-hours, sufficient to prevent said vehicles from parking, storing, or stacking on the adjacent roadways.
15. Where required, the parking and access to the facility shall be in accordance with all applicable local, state and federal handicapped access regulations.
16. A log of types and quantities of hazardous materials brought on site, generated on site and the amounts and location of disposition of these materials on and off site shall be maintained, including all Material Safety Data Sheets (MSDS).
17. Hazardous materials containers must be labeled, tagged, and marked with appropriate warnings and the following information: identity of the hazardous chemical(s); appropriate hazard warnings, and name and address of the chemical manufacturer, importer, or other responsible party.
18. All detention basins on the project site shall be the responsibility of the property owner and shall be kept in working order as designed.

Pre-Construction

1. Prior to the commencement of construction, all necessary and required permits must be obtained from any and all other municipal, state and/or federal departments, boards, commission or agencies, including, but not limited to, a Provisional License from the Massachusetts Cannabis Control Commission, and all work shall be done in accordance with said permits. Specifically, the Applicant must provide to the ZBA a copy of the Negative Determination of Applicability or Order of Conditions from the Plainfield Conservation Commission, and a copy of the Board of Health approval of the proposed on-site septic system.

If the subsequent project approvals result in modifications to the site plan or other project features, the Applicant must consult with the ZBA regarding whether a modification to the Special Permit is required.

2. Prior to the commencement of construction the applicant is responsible for submitting to the ZBA and Conservation Commission the final approved storm water pollution prevention plan (SWPPP) and an EPA Notice of Intent, as applicable.
3. No work shall commence until a pre-construction conference has been held between the applicant, the contractor, the project engineer, and appropriate Town officials (Highway Superintendent, Fire Chief, Police Chief, Building Inspector, etc.). The applicant is responsible for contacting the Town officials to make arrangements for such conference. At said pre-construction conference the applicant shall submit, for the Town's approval, a written schedule for regular inspections and notification procedures (ongoing throughout the construction of the project).
4. The Highway Superintendent and Police Chief shall approve the routes for material deliveries.
5. The Applicant shall notify the Zoning Board of Appeals, in writing, at least 48 hours prior to the beginning of construction.
6. The Applicant and/or his representatives must post a 24"x 30" weather resistant sign on the premises during construction, which states the hours of operation and the phone numbers of the owner and the enforcing agencies (the Plainfield Police Department, Fire Department and Building Inspector). This sign shall be installed prior to commencement of construction.
7. The Applicant shall be responsible for documenting the pre- and post- construction state of Broom Street from South Central Street east to the project site. This documentation shall utilize, but not be limited to, photographs and digital video with identified distance stations. The documentation shall be provided to the ZBA and the Highway Superintendent prior to construction.
8. Prior to the commencement of construction the applicant must provide an Inspection Bond of \$5,000 to cover the expenses of the Zoning Board and/or Board of Health to secure outside consultants to assist with the ongoing monitoring of the project, primarily related to noise and odor evaluation (not to exceed \$5,000.00).

Construction

1. Hours of construction are limited to:
 - a. Monday through Friday: 8:00 a.m. to 6:00 p.m., with no equipment starting until 8:00 am.
 - b. Saturday: 9:00 a.m. - 5:00 p.m. with no equipment starting until 9:00 am.

- c. No operation is permitted on Sundays or state recognized Holidays.
- d. While Plainfield schools are in session, all deliveries shall be scheduled to avoid school bus routes during their hours of pick-up and drop-off.
- e. Operations must comply with any other Town noise or hours of operation regulations or restrictions.

2. From the commencement of construction, all work shall continue in an uninterrupted and timely fashion until the project is completed, excepting weather related delays. Failure to so comply may be reason for the Zoning Board of Appeals to rescind approval of this Special Permit.

3. During construction, adequate provisions shall be made on-site for the parking, storing, and stacking of construction and contractor vehicles and materials, as well as delivery vehicles/trucks, including off-hours, sufficient to prevent said vehicles from parking, storing, and stacking on the adjacent roadways.

4. During construction, adequate and effective measures shall be taken to prevent erosion/siltation from leaving the site, or impacting the on or off-site drainage systems.

5. During construction, adequate and effective measures shall be undertaken to prevent trucks and construction vehicles from dragging soil, mud or debris onto the adjacent roadways. Sediment tracked onto roadways from construction activities shall be removed by sweeping and, as necessary, water spraying at the conclusion of each construction day, until all work areas have been properly stabilized.

6. The site shall be kept reasonably clear of construction debris and trash, and said debris and trash shall be removed periodically from the site. Debris or trash which becomes a nuisance to abutters or which blows onto the adjacent roadways shall be removed immediately upon notification by the Town or its representative.

7. The Applicant agrees to remove, patch and repair any damage to the adjacent roadways resulting from this project at the conclusion of construction, if determined necessary by the Plainfield Highway Superintendent.

8. The Applicant's construction site manager or supervisor shall arrange and conduct a monthly construction progress meeting with appropriate Town officials. The time and location of the meetings shall be coordinated by the site manager. The frequency of the meetings may be reduced or increased as appropriate by the Zoning Board of Appeals or Agent.

9. Spill kits adequate to address potential hazardous materials release risks shall be kept on site at all times.

10. All existing topsoil for areas to be disturbed shall be stockpiled on site and shall be surrounded with silt fence and hay bales or shall be covered with a solid woven fabric or tarp to prevent erosion or loss of usable top soil materials. The removal of topsoil from the

site is prohibited. Other earthen materials shall only be removed where duly permitted by the Town.

11. The Applicant shall be responsible for providing necessary training to Town officials in regards to operation/emergency response for the facility prior to the start of operations. The Applicant shall be responsible for additional training at the site to acquaint Town officials with any new systems as technology or equipment is changed or updated.
12. The Applicant shall install a key lock box on site to provide access for Town emergency officials to the satisfaction of the Fire Department.
13. Three (3) full-size, one (1) 11"x17", one half-size (12"x18") and a pdf version of the full set of final plans shall be delivered to the Zoning Board of Appeals within fourteen (14) days from the date of this Decision.

Project Completion

1. All work shall be completed within 18 (eighteen) months of the approval of this Special Permit. The Zoning Board of Appeals may grant extensions for good cause, upon written request by the Applicant provided:
 - a. said request is submitted prior to the expiration of this Special Permit, and
 - b. said approval requires the affirmative vote of a majority of the full Board taken at a public meeting (public hearing is required).
2. This project shall not be considered complete until:
 - a. all of the site improvements, as approved by the Zoning Board of Appeals, are completed,
 - b. an "as built" plan has been provided to the Zoning Board of Appeals. Such plan shall be certified and stamped by the professional engineer of record and the submission to the Zoning Board of Appeals shall include original mylars, three (3) full-size, two (2) half-size and an Adobe PDF electronic file format version of the full set of "as-builts".
 - c. the project engineer has submitted a written statement, with his/her seal/stamp affixed, certifying that all work has been done in accordance with the approved plans and conditions of this Special Permit, and that all systems are functioning as designed
3. No use of this property and/or facility being permitted by this Special Permit may commence until the project's engineer has submitted a certification, which the Zoning Board of Appeals has accepted and approved, that all of the conditions of this Special Permit have been complied with. The Zoning Board of Appeals may, by an affirmative vote of at least a simple majority of the entire Board membership taken at a public meeting, permit said use, or a portion of said use, to commence prior to compliance with or completion of all of the conditions of this Special Permit. This approval is up to the sole discretion of the Zoning

Board of Appeals, which may require a performance bond to ensure compliance and completion of all of the conditions.

Post-Construction

1. There shall be no marijuana consumption allowed on site.
2. Hours of operation shall be from 7:00 a.m. to 7:00 p.m. Reduced staffing may be on site after hours as necessary.
3. There shall be no deliveries of recreational or medical marijuana from the site to individual homes, residences or people. There shall be no direct retail sales from the site.
4. All on-site landscaping and vegetation screening shall be maintained in good condition so as to present a healthy, neat and orderly appearance. The Applicant is responsible for ensuring the successful planting and establishment of vegetative screening. The health of the vegetative screening shall be monitored for the life of the project and replaced if it is damaged, dead, or not serving its purpose as a visual screen.
5. The Applicant shall maintain the fencing at the project site in good condition for the life of the project.
6. There shall be no outside storage permitted.
7. With the exception of the outdoor grow area, all aspects of the marijuana establishment, except for the transportation of product or materials, relative to the cultivation, processing, distribution or administration functions must take place within the fully enclosed buildings (including greenhouses) and shall not be visible from the exterior of the property. They may not be located in a trailer, storage freight container, motor vehicle or other similar type potentially movable enclosure.
8. No application of chemicals, pesticides and/or insecticides used in the cultivation or processing of marijuana shall be dispersed into the outside atmosphere nor released in a manner that could potentially adversely impact the on-site water supply or any nearby water body or feature, including the Mill Brook, or the air quality.
9. The access drive shall be kept clear of snow and shall be maintained year-round sufficient to provide access for emergency vehicles.
10. The Applicant shall provide written notification to the ZBA and project abutters within 1,500 feet, no later than 10 days prior to the start of any harvest of plant materials. The written notification shall include harvest dates and locations.
11. The goal of the Special Permit approval is that no odor from the marijuana cultivation, harvesting or processing activities be detectable by a person with an unimpaired sense of smell beyond the property boundary line or at any adjacent use or property. Compliance with this

standard must be ensured. **Therefore, the outdoor grow area is conditionally approved for a period of one year from the start of project operations as defined as the start of the first actual growing season.** The ZBA will designate an authority to receive and record complaints related to odor during the first growing season year of operation. Following the first year of operation, the ZBA will review any submitted complaints and determine if additional odor control mitigation is required. If mitigation is required, the Applicant may choose whether to abide by the mitigation requirements or cease the operation of the outdoor grow area. If the Applicant implements the required mitigation measures, the ZBA will again review, at a specified time period, any submitted complaints to determine if the mitigation implementation has been successful. If those efforts have not been successful, and there is a determination that abutters or other persons have been or are being adversely impacted, and no other mitigation solutions are identified, the ZBA will require that the outdoor grow portion of the facility cease operating.

12. An operation and maintenance plan for the odor control equipment shall be prepared and available on-site, and a copy submitted to the ZBA. The plan shall include written operating instructions and maintenance schedules. Records shall be kept of the dates and description of all maintenance and repair performed on the odor control equipment. Records shall be kept on-site and provided to the ZBA upon request.

13. An operation and maintenance plan for the storm water management system shall be prepared and available on-site, and a copy submitted to the ZBA. The Applicant shall conduct annual inspections to ensure that the storm water basins continues to function as designed after construction.

14. Prior to the commencement of operations, the Applicant shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the ZBA with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.

15. As a permitted marijuana establishment, the Applicant shall file an annual written report to the Plainfield Building Inspector no later than January 31st of each calendar year, providing a copy of all current applicable State licenses for the facility and/or its owners and demonstrating continued compliance with the conditions of the Special Permit.

16. The Building Inspector, Board of Health, Police Department, Fire Department and ZBA shall be notified in writing by the Applicant:

- Within 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the establishment.

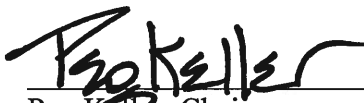
- The Applicant is required to respond by phone or email within twenty-four hours of contact by a Town official concerning the project at the phone number or email address provided to the Town as the contact for the business.

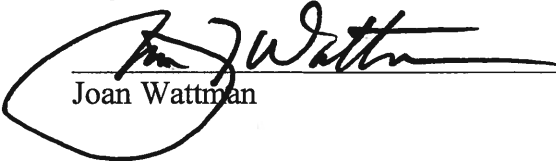
17. The Zoning Board shall designate an authority to monitor the noise generated from the project site. The Designated agent shall conduct measurements of existing ambient noise conditions at the project site before construction and again after 6 (six) months of operations to demonstrate compliance with the Department of Environmental Protection Noise Policy (MassDEP Noise Policy #90-001).


INCLUDE WITH APPROVAL: Copy of the Host Agreement, Copy of the Provisional License, Proof of Liability Insurance Coverage, Evidence of Site Control

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SIGNATURES OF ZONING BOARD OF APPEALS MEMBERS


 Peg Keller, Chair 1/30/19
Date


 Joan Wattman 1-30-19

Ann Irvine

 William Latimer, Alternate 1/30/19

Copies:
 Building Department
 Applicant

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TOWN CLERK'S CERTIFICATION

TOWN CLERK'S OFFICE
 TOWN OF PLAINFIELD, MASSACHUSETTS

I, Ruth E. Osgood, CLERK OF THE TOWN OF PLAINFIELD HEREBY CERTIFY THAT THE NOTICE OF APPROVAL OF THIS SPECIAL PERMIT BY THE PLAINFIELD ZONING BOARD OF APPEALS HAS BEEN RECEIVED AND RECORDED AT THIS OFFICE, AND THAT:

 NO NOTICE OF APPEAL WAS RECEIVED DURING THE TWENTY DAYS NEXT AFTER SUCH RECEIPT AND RECORDING OF SAID NOTICE.

 A NOTICE OF APPEAL WAS RECEIVED DURING THE TWENTY DAYS NEXT AFTER SUCH RECEIPT AND RECORDING OF SAID NOTICE

DATE RECEIVED IN OFFICE: 1/31/2019

DATE APPEAL PERIOD COMMENCED: 2/1/2019

DATE APPEAL PERIOD CONCLUDED: 2/21/2019

DATE RECORDED IN REGISTRY: _____

DATE OF ABUTTER NOTIFICATION: _____