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MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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CITY CLERK
SALEM, MASS

June 20, 2018

Decision

City of Salem Board of Appeals

Petition of ATLANTIC MEDICINAL PARTNERS, INC. seeking a Special Permit per Sec. 6.10.4, of the Salem Zoning Ordinance, to operate a licensed retail marijuana establishment at 297 HIGHLAND AVE (Map 8 Lot 130)(B-2 and ECOD)

A public hearing on the above Petition was opened on June 6, 2018 pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Salem Board of Appeals members present: Rebecca Curran (Chair), Peter A. Copelas, Mike Duffy, Paul Viccica, Jimmy Tsitsinos)

The Petitioner seeks a Special Permit per Sec. 6.10.4 of the Salem Zoning Ordinance, to operate a licensed retail marijuana establishment.

Statements of fact:

1. In the petition date-stamped April 20, 2018, the Petitioner requested a Special Permit per Sec. 6.10.4 of the Salem Zoning Ordinance, to operate a licensed retail marijuana establishment.
2. Jesse H. Alderman- Foley Hoag, presents the petition.
3. As required by the state statute, the petitioner held a community outreach meeting that was held on May 2, 2018.
4. The property is located in the B-2 and Entrance Corridor Overlay Zoning Districts.
5. Atlantic Medicinal Partners is an existing medical marijuana dispensary that has been licensed by the Massachusetts Department of Public Health. The company has received a license for a cultivation facility, which is under construction and located in Fitchburg, Massachusetts. The company is a vertical operation, whereby the company will be growing their own product. Atlantic Medicinal Partners will also receive licensing priority review through the state licensing process as the company is already an existing licensed company for medical marijuana.
6. The petitioner is proposing to locate a retail marijuana facility at the existing Ace Hardware and One-Way Lumber property. The property is 27,225 square feet and has an existing 9,300 +/- square foot structure. There are no other buildings or uses on the site.
7. There are no dimensional changes or alterations to the building footprint. The existing building will be repainted, a new storefront entry, windows, new roof and garage door replacement.
8. There are no residential abutters to this property.

9. The petitioner is proposing to utilize approximately 1,945 +/- square feet for retail, back-office, and security functions associated with this business including an internal garage for secure product delivery. The remaining 7,359 +/- square feet will be closed storage space.
10. The property is not located within five hundred (500) feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, or within five hundred (500) feet of houses of worship and funeral homes, or within one thousand (1,000) feet from institutions of higher education. The site is located within five hundred (500) feet of a pre-school.
11. The petitioner provided a traffic impact statement dated April 20, 2018 by Ron Muller & Associates. Compared to the existing retail hardware store and lumberyard, the proposed retail marijuana dispensary will generate 11 to 18 vehicle trips more during the weekday peak hours and 50 additional vehicle trips during Saturday peak hours. Overall increases to traffic represent between 0.2 and 0.7 percent of the existing traffic on Highland Avenue. Other factors that serve to lower traffic impacts of the proposal include the availability of public transportation, an increase in pass-by traffic than the ACE Hardware store, and elimination of heavy truck traffic to the site.
12. The petitioner is proposing to have nineteen (19) parking spaces for customers, three (3) employee parking spaces at the rear of the building and ten (10) off-site employee parking spaces at an abutting property. The zoning ordinance requires fourteen (14) parking spaces for this location.
13. No on-site consumption will take place on the premises.
14. The petitioner will utilize a fraud detecting scanner to verify government issued identification, install interior and exterior cameras, install perimeter lighting, have restricted access areas with coded RFID security badges, and live camera tie-in to the Salem Police Department among other security measures.
15. The petitioner met with the Salem Chief of Police and received a letter dated June 1, 2018 in support of the petition and security plan that was submitted to the Salem Police Department.
16. The petitioner provided a landscape plans titled "297 Highland Ave." dated April 20, 2018 and April 26, 2018, that comply with the requirements of the Entrance Corridor Overlay District zoning ordinance.
17. It is anticipated that there will be approximately fifteen (15) to twenty (20) employees and the company will offer a preference to Salem residents and local people for employment.
18. At the public hearing, (1) member of the public spoke in favor, and no members of the public spoke in opposition to the petition.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petition, including the application narrative and plans, and the Petitioner's presentation and public testimony, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

Findings:

The Board finds that the applicant has demonstrated that the following specific criteria for retail marijuana establishments will be met and is in accordance with Section 6.10.4 of the Salem Zoning Ordinance:

1. The applicant demonstrates that the marijuana establishment will meet all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations including, but not limited to M.G.L c.94G, Section 12 General Marijuana Establishment Operations.
2. The applicant has satisfied all of the conditions and requirements of this section and other applicable sections of the Zoning Ordinance and any applicable city ordinances.
3. The facility provides adequate security measures to ensure that there are not direct threats to the health or safety of employees, staff, or members of the public.

General Special Permit findings:

1. There are social, economic, and community needs served by the proposal. The retail establishment will be extensively regulated by the Cannabis Control Commission, which was created to regulate the industry as approved by a popular vote in 2016. Pursuant to the popular vote, the proposed establishment will meet community needs expressed by such vote and Massachusetts General Laws c.94G.
2. Traffic flow and safety, including parking and loading are minimal as demonstrated by the submitted traffic impact statement dated April 20, 2018 by Ron Muller & Associates.
3. Utilities and other public services are adequate and the use will not result in significant additional service demand.
4. There will be no negative impacts to the natural environment, including drainage.
5. The B-2 Zoning District is a Business Highway district that allows business uses. The property use proposed is a business use and is consistent with the commercial character of the neighborhood. Further, there are no direct residential abutters to the property.
6. The potential fiscal impact, including impact on City tax base and employment is positive.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor, (Rebecca Curran (Chair), Peter A. Copelas, Mike Duffy, Paul Viccica, Jimmy Tsitsinos) and none opposed to approve a Special Permit per Sec. 6.10.4 of the Salem Zoning Ordinance, to operate a licensed retail marijuana establishment subject to the following terms, conditions and safeguards:

Standard Conditions:

1. The Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.

3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finishes of new construction shall be in harmony with the existing structure.
6. A Certificate of Inspection shall be obtained.
7. A Certificate of Occupancy shall be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Special Conditions:

1. The applicant shall not operate until the issuance and submission of a copy of the issued state license by the Commonwealth and all other state and local requirements are met.
2. A community host agreement shall be executed with the City within six (6) months of issuance of this special permit. A six (6) month extension can be granted by the Board of Appeals if good cause is shown.
3. The applicant shall be issued a state license within six (6) months of the issuance of this special permit. A six (6) month extension can be granted by the Board of Appeals if good cause is shown.
4. The applicant shall lease the ten (10) additional parking spaces on the adjacent property with a condition subject to being eliminated by an amendment submitted to the Zoning Board of Appeals that these parking spaces are not required to serve the use.
5. The remaining square footage of the building not be lease or transferred to another use.
6. The three (3) rear employee parking spaces shall be signed as such.


Rebecca Curran, Chair
Board of Appeals

A COPY OF THIS DECISION HAS BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK

Appeal from this decision, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A, and shall be filed within 20 days of filing of this decision in the office of the City Clerk. Pursuant to the Massachusetts General Laws Chapter 40A, Section 11, the Variance or Special Permit granted herein shall not take effect until a copy of the decision bearing the certificate of the City Clerk has been filed with the Essex South Registry of Deeds.