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MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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August 29, 2018

Decision

City of Salem Board of Appeals

2018 AUG 29 AM 8:17
CITY CLERK
SALEM, MASS

Petition of CTDW LLC seeking a Special Permit per Sec. 6.10.4 and 9.4 of the Salem Zoning Ordinance, to operate a licensed retail marijuana establishment at 3 DODGE STREET (Map 34 Lot 401)(B-5 Zoning District)

A public hearing on the above Petition was opened on August 15, 2018 pursuant to M.G.L Ch. 40A, § 11. The hearing was closed on that date with the following Salem Board of Appeals members present: Mike Duffy (Chair), Peter A. Copelas, Jimmy Tsitsinos, Paul Viccica.

The Petitioner is seeking a Special Permit per Sec. 6.10.4 and 9.4 of the Salem Zoning Ordinance, to operate a licensed retail marijuana establishment.

Statements of fact:

1. In the petition date-stamped July 24, 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. Thomas Alexander of Alexander & Femino presented the petition.
3. The petitioner is proposing to operate a licensed retail marijuana establishment in a portion of the existing one-story building. The property is +/- 6,240 square feet and is currently used for commercial printing.
4. The petitioner is proposing to use approximately 2,220 square feet of gross floor area for retail, back-office, and security functions. The remaining +/- 4,000 square will be used for storage and be primarily vacant.
5. The property is located in the B-5 Central Development Zoning District.
6. As required by the state statute, the petitioner held a community outreach meeting on August 13, 2018.
7. 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 feet (500) feet of houses of worship and funeral homes, or within one thousand (1,000) feet of institutions of higher education, colleges or universities.

8. The current use of the property as a commercial printing business has twenty (20) employees. The proposed use will have ten (10) employees and the company will provide transit or monthly parking passes for its employees.
9. The property is located in the B5 Central Development District and is a nonresidential use. No off-street parking spaces are required to be provided for non-residential uses in this zoning district. It is expected that many customers will use alternative transportation options to access this facility as the Salem Station MBTA Commuter Rail is 0.3 miles away, three (3) bus routes have a bus stop on Derby Street, and there are additional alternative transportation options including a bike share and walking.
10. The petitioner met with the Salem Chief of Police and received a letter dated August 14, 2018 in support of the petition and security plan that was submitted to the Salem Police Department.
11. Security measures include the use of an internal bay for deliveries, a 50-state identification verification scanner and redundant identification checks, security cameras, perimeter lighting, live camera tie-in to the Salem Police Department, restricted access areas limited to employees with electronic security badges among other security measures.
12. The petitioner will utilize technology including mobile ordering and reservation applications to enhance quick service of customers. The company is expecting to serve approximately thirty (30) people an hour on average. The petitioner is also proposing a 1,000 square foot waiting area to allow customers to queue inside of the building.
13. There will be no on-site consumption.
14. The hours of operation will be consistent with those of package stores licensed under M.G.L. c. 138. The petitioner will work with the City on amending hours during Halloween season if needed.
15. The requested relief, if granted, would allow the petitioner to operate a licensed retail marijuana establishment.
16. At the public hearing one member of the public spoke in favor and no members of the public spoke in opposition to the proposal.

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 in accordance with Section 6.10.8 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 no 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 adequate as the property is located in the B5 Zoning District and there are no on-site parking requirements. The petitioner will also provide transit and parking passes to employees to limit the impacts to on-street parking in the area.
3. Utilities and other public services are adequate.
4. There will be no negative impacts to the natural environment, including drainage as the proposed use will be contained entirely within the existing footprint of the building.
5. There are no negative impacts to the neighborhood character as the site does not currently abut residential properties. The petitioner will also be significantly investing in this 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 four (4) in favor, (Mike Duffy (Chair), Peter A. Copelas, Jimmy Tsitsinos, Paul Viccica) and none opposed to allow the petitioner a Special Permit per Sec. 6.10.4 and 9.4 of the Salem Zoning Ordinance, to operate a licensed retail marijuana establishment subject to the following terms, conditions and safeguards:

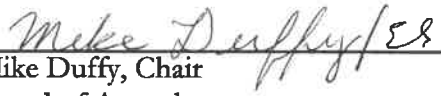
Standard Conditions:

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 shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
9. 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 petitioner shall continue to allow the use of the exterior walls for public art.


Mike Duffy, 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.