

APPROVED ON 5/18/21

Board of Selectmen – Minutes of Meeting

BOARD OF SELECTMEN
MINUTES OF MEETING – May 4, 2021

Present: David Consolati, Chairman

By ZOOM: Patty Carlino and Sean Regnier, Board of Selectmen.

Absent: Christopher Ketchen, Chief Administrative Officer (CAO).

Chairman David Consolati called the meeting to order at 7:00 PM, stating that pursuant to the Open Meeting Law, this is an audio recording with a roll call vote of members present by ZOOM.

<i>David Consolati</i>	<i>here</i>
<i>Patty Carlino</i>	<i>here</i>
<i>Sean Regnier</i>	<i>here</i>

1. **Approval of Minutes:** *Upon a motion duly made and seconded and upon a roll call vote, the Board members voted unanimously to approve the open session minutes of April 20, 2021.*

<u><i>AYES</i></u>	<u><i>NAYS</i></u>
<i>David Consolati</i>	<i>None</i>
<i>Patty Carlino</i>	
<i>Sean Regnier</i>	

2. **Public Hearings:** Forest Wilde, LLC – Application of Jeanne Albano Carmichael & Cassandra Purdy, d/b/a Forest Wilde, LLC for approval of a Special Permit under Section 199-9-11 (Marijuana Establishments), Section 13.3 (Site Plan) and Section 13.4 (Special Permit) from the Town of Lee Zoning Bylaws. The proposal is for a marijuana establishment for the retail and manufacturing of cannabis. The cannabis will be sold to the public, 23 and over and to licensed establishments in Massachusetts. The property affected is located at 635 Laurel Street, in the Rural Business (RB) Zoning District (Assessor's Map 7, Lot(s) 9. --- Pete D'Agostino, on behalf of the applicant, Cassandra Purdy and Jeanine Albano Carmichael), Forest Wilde, LLC and introduced himself to the Board. He stated that the Board has five points for consideration in the approval of this permit. The five points are 1) in compliance – Sect. 199.13.4 in compliance will all provisions. He stated that they have met and completed all conditions needed for a special permit. They have met the general intent (purpose) of the cannabis bylaw regarding zoning as the property (Cork N' Hearth) was considered at town meeting and approved. 2) Is essential or desirable – The

Berkshires supported adult use in Lee in 2016 with a strong majority vote. The Annual Town Meeting supported the zoning using the Cork N' Hearth site as an example to be considered. Lee has supported all cannabis permits submitted. The town has received a petition signed by 149 residents of Lee and/or Lenox in support of the use and 26 letters in support of the use, which demonstrates that it is desirable. 3) Not detrimental to adjacent uses as the site was chosen by town meetings and is not more detrimental than a restaurant from the outside looking in. Odor will not be a problem as they will use a cold-water extraction. They will commit to neighbors that there will be no odor. The look of the premises will be nearly identical with a lined parking lot, which will not be used for general use. The front parking spaces will be only for the handicapped and one employee parking; all other cars will be parked in the upper parking lot. 4) No undue traffic congestion as they are expecting 350 – 365 customers a day based on a traffic memo using pre-pandemic traffic numbers averaged from the June & August peak.

Chairman Consolati commented that the amount of parking spaces is three times as much as the parking for Canna Provisions.

Mr. D'Agostino commented that since Covid-19, on-line ordering is permitted and approved by the CCC (Cannabis Control Commission), which entails only 5 – 7 minutes per customer. The on-line ordering sets appointment times so not everyone is there at the same time, which will reduce the traffic time. There will be no parking at the boat ramp or the nursing home across the street. He stated that at 35-40 customers per hour, they have zero concerns on the parking issue. He thinks people have overestimated the traffic as they have one of the largest parking lots in the state. As a condition they will be dedicated to a police detail for a month and will work with the police department for four – six months to address any unanticipated concerns.

Chairman Consolati added that a left turning lane would have been desirable but as it is a State Highway it is based on DOT standards for approval and the numbers don't support a turning lane.

Patty Carlino added a question asking if they were considering a follow-up cultivation in the future. If so, they would need a new license and would have to start the whole process over and it would not be do-able. Mr. D'Agostino stated that that on their radar as the site wouldn't support it.

5) Public Water & Drainage-A letter was sent to DPW and they and the Planning Board accepted the plan provided all documents to apply for permits were received.

Police Chief Craig Desantis came before the Board with his concerns due to the higher customer volume, the in and out traffic and congestion which could create a public safety hazard. He stated that this would impact the area and make it more accident prone. There is no turning lane which will back up traffic with drivers unfamiliar with the area. There are no sidewalks or crosswalks and these are issues he cannot control. There is a significantly higher probable amount of traffic. He is concerned about customers entering and exiting.

Sean Regnier commented to Chief Desantis that at the Planning Board the police dept. gave the numbers for actual travelling speed and most drivers exceeded the posted (40-45 mph) speed limit. Mr. D'Agostino made comment that the owners of the restaurant told him that there had been no accidents in the last 20 years or so with entering or exiting the premises

At this point in the meeting many abutters and Lee/Lenox residents commented on their anticipated impact from this business; and their reasons why. Namely:

Against

Cody Gavin- ¼ owner of Lake House Inn)
Lesley Oransky,
Matthew George
Steve Grove
Richard Moche
Deb Bronston Culp
Bill Bourquard
Kerry Stein
Bill Barry

For

Daniel Osman
Chris Gerardi
David Chapman
Shawn Chapman
Nathan Winstanley
Matt Carlino (Planning Board)
Bill Lyon

Mr. D'Agostino stated that the Canna Provisions has overflow parking because they need it and that in his opinion, have done a great job in managing their parking. He also stated that the Town voted for two retail marijuana business; they have one at this time. This would fill that quota.

The consensus of those not in favor is that it is a "bad location".

Matt Skelly – a traffic engineer with Fuss & O'Neill, in response to Chief Desantis' comments regarding the congestion and anticipated crashes stated that standards for restaurant and dispensing show a similar amount of traffic. The report shows that within 1,000 ft. north and south of the premises there have been 9 crashes in the last 5 years (less than 2 per year). He stated that there should be no undue congestion caused by the marijuana site. Chief Desantis replied that he will have detail officers and will try to mitigate any issues, but he can't have officers in the street.

Eric Williams from Canna Provisions spoke to the Board thanking the Lee Police Dept. for their support and professionalism. He supports the process.

The Board talked about incremental reviews to address the parking issues. Patty Carlino thanked Chief Desantis for his input and agrees that reviews of any issues in less than a year is a good idea. They assured the Lake House Inn that the building will look the same. The Town Reps voted the district and it was well discussed. Lenox will do what they feel they have to do.

With discussion about the Special Permit being completed, the Board was ready to make their decision based on the following Five Findings:

1. Is in compliance with all provisions and requirements of this chapter and in harmony with its general intent and purpose; by meeting all requirements of the Marijuana Establishment bylaw adopted at Town Meeting, with no exemptions sought by the applicant under the marijuana bylaw.

AYES

NAYS

David Consolati
Patty Carlino
Sean Regnier

None

2. Is essential or desirable to the public convenience or welfare at the proposed location; the Town voted in favor of a marijuana bylaw and the location of the facility is in an appropriate area where other retail businesses are located.

AYES

NAYS

David Consolati
Patty Carlino
Sean Regnier

None

3. Will not be detrimental to adjacent uses or to the established or future character of the neighborhood; because the facility is located amongst other retail uses in a commercial corridor.

AYES

NAYS

David Consolati
Patty Carlino
Sean Regnier

None

4. Will not create undue traffic congestion or unduly impair pedestrian safety; the applicant has satisfactorily addressed concerns with a Traffic Study by Fuss & O'Neill and have agreed to hire a detail traffic officer if deemed necessary and/or requested by the Board of Selectmen due to traffic congestion at the locus.

AYES

NAYS

David Consolati
Patty Carlino
Sean Regnier

None

5. Will not overload any public water, drainage or sewer system or any other municipal

facility to such an extent that the proposed use or any existing use in the immediate area or in any other area of the town will be unduly subjected to the hazards affecting public health, safety or general welfare; and as shown in past cases, will actually use less water than other businesses in the area.

AYES

NAYS

David Consolati
Patty Carlino
Sean Regnier

None

This Decision is made with the following conditions:

- a. From the date of opening, the Board will conduct reviews after 3 months, 6 months and upon their 1-year anniversary to discuss traffic conditions, unanticipated problems and any complaints of odors from neighbors.
- b. Owner will arrange police detail if deemed necessary.
- c. Any exterior construction will only be done between the hours of 9:30 AM – 4:30 PM.

AYES

NAYS

David Consolati
Patty Carlino
Sean Regnier

None

4. **Pending Business:** None.

5. **Town Administrator:** a) FY 2021 Revenue & Expense Reports – Chairman Consolati informed the Board that the Revenue & Expenses Reports for period ended April 30, 2021 are available for review in the Selectmen's Office.

6. **Public Comments:** Town Clerk, Christopher Brittain added that there is still an opening on the School Committee. He also stated that early voting by mail is available for those who request it. He urged everyone to get out and vote at Crossway Village on Monday, May 17th, 2021.

7. **Next Regular Meeting** - Our next regular meeting will be held on Tuesday, May 18, 2021 at 7:00 PM.

8. **Motion to Adjourn** – Upon a motion duly made and seconded and by roll call vote, the Board members voted unanimously to adjourn the meeting at 9:45 PM.


AYES

NAYS

David Consolati
Patty Carlino
Sean Regnier

None

Respectfully submitted,


Cindy L. Bigelow,
Administrative Assistant

Notice of Website Posting Sent to:

Board of Selectmen
Town Administrator
Town Clerk
Town Collector
Planning Board

Board of Assessors
Board of Health
Conservation Commission
Police Chief
Building Inspector

Dept. of Public Works
Town Treasurer
Town Reps. District Chair
Superintendent of Schools
Town Accountant