

Minutes of Zoning Board Meeting  
Town of Whately, MA  
Town Offices Building, 4 Sandy Lane  
January 31, 2019

Members Present: Roger Lipton, Bob Smith, Debra Carney, Kristen Vevon  
Members Absent:: Fred Orloski

Attending: Chris Chamberland, 4 Allen Pl., Northampton; Blake Gilmore, 96 Maple Springs Rd., Wareham; John Gates, 173 Main St., Greenfield; Peter Davies, 21 Sheldon Ave, Easthampton; Mattheu Plotkin, 101 Plain Rd., South Deerfield; John Bonavita, 26 Autumn Ridge, E. L.; Dan Denehy, 330 Whately; Fred Orloski, 154 Christian Ln.; Gretchen Bechta, 139 Christian Ln.

Public Hearing, Toro Verde (Massachusetts) III, Inc., continued from January 3, 2019

Application for a special permit to use an existing commercial storefront for retail sale of adult-use marijuana, on premises owned by Old State Road LLC and located at 424 State Road (Sugarloaf Shoppes).

Chair Roger Lipton called the meeting to order at 6:45 pm.

Attorney Richard Evans, representing Toro Verde III, mentioned that the board's scheduled visit to the site had taken place on January 12, 2019, and also that the members that the Planning Board had approved their site plan at its meeting of January 15, 2019. He submitted two letters dated January 29, 2019, both of which address the site plan and the security plan, one from Fire Chief John Hannum and one from Police Chief James A. Sevine, Jr.

Mr. Evans also submitted a letter dated January 31, 2019, which he wrote to the Zoning Board of Appeals on behalf of Toroverde (Massachusetts) III, agreeing to the four conditions that the company accepted at the last hearing session:

SPECIAL PERMIT CONDITIONS

1. That the applicant not commence any operations until licensed to do so by the CCC.

That prior to opening for business, it

2. Repair and secure the iron fence running along State Road, so as to discourage pedestrians from crossing the highway; and
3. Restore or replace the stop sign at the exit to State Road
4. That upon opening for operations, it maintain a police detail to control vehicle and pedestrian traffic on the Sugarloaf Shoppes site so long as the protection of public safety shall so require, in the reasonable opinion of the police department.

Chris Chamberland, of Berkshire Design, stated that Toroverde III's owners are willing to replace the faded stop sign at Routes 5 & 10, but that according to Highway Superintendent Keith Bardwell the Commonwealth of Massachusetts controls another stop sign on Old State Road (Route 116) so any work must be done by the state. He told the board that there are eleven open marijuana shops in Massachusetts now, and that state officials anticipate openings of four to eight more every month. Therefore, he said, by the time Toroverde III opens – in six months or so – there could be up to forty-eight shops operating in the state, and that this should relieve the pressure on the first shops to open, alleviating any parking problems.

Roger reviewed the Host Community Agreement silently and stated that he had viewed the shop premises at the site visit. He asked for any questions, comments, or objections from the attendees, and there were none. Bob verified that the spelling of the project name as Toroverde, and that the applicant is the operator.

Roger moved to close the public comment portion of the hearing, Bob seconded, and the motion carried. The board openly deliberated among themselves. Roger reviewed the points covered at the previous hearing session on January 3, 2019. He, Debra, and Bob all said that their questions had been satisfactorily answered. It was noted that over the past weeks, reports have described current traffic at the state's first open shops as being much reduced from original levels. Roger moved to grant the special permit with the conditions listed in the letter Attorney Evans submitted tonight. Debra seconded, Bob voted Yes (as an alternate, Kristin didn't vote), and the special permit was approved unanimously. Because it was 6:45 pm and the next agenda item was not to be addressed until 7:00, the board used the time to write the decision.

The board also voted to approved the minutes of November 1, 2018, as amended.

#### Public Hearing, Old Town Hall Usage Policies and Building Permit

190 Chestnut Plain Road Trust has filed an appeal regarding the issuance of, or decision to issue, any occupancy permit that will allow the use of the "Old Town Hall" located at 194 Chestnut Plain Road, pursuant to the Building Use Policy adopted by the Selectboard in and for the Town of Whately on November 28, 2018.

At 7:10 pm Attorney John C. Gates appeared for his client, applicant 190 Chestnut Plain Road Trust. There was a brief discussion about the Trust's request that the hearing be postponed because additional preparation time is required due to a death in the family. Mr. Gates submitted a letter dated January 30, 2019, which states, "By this letter, the Trust agrees that the date by which the Zoning Board of Appeals must hold a hearing on the appeal is extended to April 4, 2019, and the date by which the Board must render a decision is extended to April 18, 2019". Bob explained that he will not be available on that date. Roger, Debra, and Kristin will all be available, and Roger re-scheduled the Old Town Hall hearing for April 4, 2019.

The next regular meeting of the ZBA will be March 7, 2019, for a hearing on Karen Gaston's application for a special permit to open a marijuana retail shop on 13 State Road.

The board discussed how to address the matter of advertising fees. Resolved: Roger will email Lynn for data on this in order to facilitate a decision.

3.

*Documents Reviewed (kept in the ZBA files)*

1. A letter dated January 29, 2019, from Fire Chief John Hannum, regarding Toroverde III
2. A letter dated January 29, 2019, from Police Chief James A. Sevigne, Jr., regarding Toroverde III
3. A letter dated January 31, 2019, from Attorney Richard M. Evans on behalf of Toroverde (Massachusetts) III, listing the four conditions under which the special permit was granted
4. A letter dated January 30, 2019, from John C. Gates of Curtiss, Carey, Gates & Goodridge, LLP, about rescheduling the hearing of the appeal regarding use of the Old Town Hall, filed by 190 Chestnut Plain Road Trust.

Mary McCarthy  
Secretary  
Zoning Board of Appeals  
Town of Whately, MA