Meeting Minutes, Zoning Board of Appeals

Town of Whately, MA

May 4, 2023

Remote Meeting via Zoom

Members Present: Debra Carney, Roger Lipton, Kristin Vevon, Fred Orloski

Members Absent: Bob Smith

Attending:

Alyson Bull

Amy Francaes

Stephen Yoshen

Quint Dawson

Bill Stasny

Jared Glanz-Berger

PJ Patel

Chris Larabee

Phil Silverman

Taylor Lovejoy

Dori Urch

Mary Moore

At 6:40 Acting Chair Debra Carney opened the meeting.

PUBLIC HEARING: Application by Toroverde (Massachusetts) III, Inc., for a special permit to make use of an existing commercial storefront for retail sale of adult-use marijuana on premises located at 424 State Road (Sugarloaf Shoppes), Unit A1, and owned by Old State Road LLC.

Phil Silverman, of proposed owner Nectarize, and Taylor Lovejoy, representing Toroverde, shared information about the Toroverde’s proposed change of ownership and control (see document included with application). This internal transfer of shares is the reason for tonight’s renewal hearing. The applicant is seeking renewal of the January 2019 Special Permit granted to Toroverde (Massachusetts) III, Inc. Since then, said the representatives, the company has completed making all of the changes inside the building and will be ready to open in two to three months. Toroverde Holdings is selling its shares of Toroverde to Nectarize, which is owned by P.J. Patel. Nectarize will hold 100% of the shares of Toroverde (Massachusetts) III, Inc. The representatives noted that the company has a provisional Cannabis Control Commission (CCC) license and that everything complies with the license and with Whately’s bylaws. The Community Host Agreement is still accepted by the Selectboard, they said. Roger asked whether they were still OK with the conditions of the 2019 special permit, and Mr. Silverman answered affirmatively. Nectarize shops are opening in Greenfield (Toroverde) and Northampton Toroverde II) as well, they said. Each location will operate separately. Post- final inspection is scheduled for June 15; they hope retail sales start by the end of July or the start of August.

2.

Debra moved to close the public comment portion of the hearing and Kristin seconded the motion. Debra moved to renew the permit as written, with the same conditions, and Kristin seconded the motion. Roger read the conditions aloud from the 2019 ZBA decision. Debra will write and sign tonight’s decision within two weeks and will file the decision with the town clerk.

PUBLIC HEARING

Application by Dori Mead for a special permit to build an 1800 sq ft addition to the existing house on premises located at 27 Masterson Rd. and owned by Dori Urch (Mead) and Jesse Hassinger.

Aimee Francaes, speaking on behalf of Dori Mead, described the plan to build a one-family, inter-generational attachment. Debra told her that if the house is still to be a single-family, no special permit is needed. Ms. Francaes said that the building inspector had denied a building permit and had referred Ms. Mead to the ZBA. Debra read from bylaws ~ 171-8. Table of Use Regulations. Residential Use, regarding single family and two family dwellings. Debra asked whether the addition could function as a separate living space, and was told that there would be a separate kitchen but shared utilities. Debra suggested it might be wise to get a special permit so that it would be there whenever the house was sold and might become a two-family. Kristin asked about an existing second kitchen in the basement, and Aimee Francaes said that will be removed, and that the garage would then become the new living space. Roger asked whether Ms. Mead has a denial letter from the building inspector and was told none had been received. The verbal denial was given at the end of February or the beginning of March, said Ms. Francaes, who screen-shared the application interface for the building permit. The interface only said, “waiting for additional information”, but Ms. Francaes said the building inspector clearly told her he was denying it.

Roger noted that since the planned addition will exceed 800 sq. ft., the accessory apartment bylaw does not apply. Debra screen-shared the project plan. She noted that the house has always had two kitchens and Jesse Hassinger explained that they want to move the existing kitchen/bedroom into the garage. Amy Francaes noted that the original space for that bedroom and second kitchen would become a pottery studio. The board was told that the house was built in 1993, and that the septic plans say the size of the septic system can definitely support their new plan.

Fred asked whether there would be a physical separation between the house and addition, since a walkway appears on the plan between the two living areas. Ms. Hassinger explained that the walkway is actually a breezeway between the second levels, which allows access to the backyard for maintenance. She said backyard access can’t be had by walking around the house at ground level, due to the existence of ledge.

There was discussion about distinguishing between single family and two family dwellings. Kristin had had some experience with the house and its original owners, a divorced couple who lived together, and had taken one of the photos now used on the current plan. She said the house has always been classified as a single family dwelling, but with extra living space to accommodate the original owners. The board referred Amy Francaes to ~ 171-10. Table of Dimensional Requirements, and she said the plan does not violate any of those items.

3.

Roger said it was best to meet again on the first Thursday of June, and that in the meantime the applicant should obtain the building inspector’s denial of the building permit in writing, with an explanation of why he denied it. He also instructed the applicant to revise the plan in order to show the house and addition are located on the lot, with boundaries and dimensions written on the plan. Debra confirmed the continuation date as June 1, and advised the applicant to let the board know if the building inspector changes his mind.

PUBLIC HEARING

Application by Alyson Bull for a special permit to operate an educational, recreational beginner horseback riding camp for children ages 6-12 at Sweet River Farm, LLC on premises located at 64 River Road and owned by Alyson Bull and Annie Sexauer.

Ms. Bull described her work as a sixth grade teacher with a background in education and horses, and her plan to open a horseback riding instructional camp on the 6.5 acre horse farm she owns with Annie Sexauer. She said the building inspector thought they might need a special permit for the business and Debra agreed. Ms. Bull said the camp would host up to eight children per week, with ten as the maximum. Besides riding skills, the attendees would be taught how to care for the horses and perform the associated chores. This summer, two week-long sessions are planned. Later, they plan to expand the number of weeks and to host a maximum of ten per week.

Alyson Bull asked about hosting students during school vacations in addition to summer vacation. The board did not object, but did specify the maximum number of operating weeks as ten during summer and two in February/April, for a total of twelve. Debra explained that, to operate in any additional weeks, the applicant would have to apply to the ZBA again for an extension. Ms. Bull asked why there needed to be any limit, and Roger explained that the application had only referred to “summer”, and that abutters might object to year-round activity without being given any notice. (It was noted that the legal notice language was much broader.)

Debra asked whether there were any more questions, and there were none. Debra moved to close the public comment portion of the hearing, and Fred seconded the motion. It was established that if the board were to vote in approval of the special permit it would be with these conditions:

1) That the camp operate for a maximum of twelve weeks, mostly in the summer months

2) That the camp offer two sessions to campers each operating day, with the total number of campers in

both sessions combined being a maximum of ten.

The Google Maps view of the property was screen-shared. It was noted that no abutters were present at the meeting, that the board had received no letters of objection, and that the board had received two letters of support: one from abutters James (J.D.) and Amy Ross, and the other from the Agricultural Commission.

Debra moved to approve the special permit with the above two conditions. Debra, Kristin, and Fred each voted Yes, and the motion carried. The hearing was closed at 8:00 pm.

4.

A question came in via Chat from Jared Glanz-Berger, asking about the Toroverde decision. Debra told him that the board had voted to approve.

Administrative business discussed included:

Debra will be out of town; decisions made tonight will be written by May 23 or 24, and members should watch for an email saying that it is at town offices for signing; Roger spoke to Brian Domina and Amy Lavallee about the agenda filing procedure; and the possible site viewing of the East School after the May 22 Obear hearing.

The meeting adjourned at 8:28 pm

*Documents Reviewed (kept in the ZBA files)*

1. An application document from Toroverde headed, Ownership, Management, and Security Plan

Information

2. A letter of support for the Sweet River Farm horse camp, from abutters James (J.D.) and Amy Ross

3. A letter of support for the Sweet River Farm horse camp, from the Whately Agricultural Commission

Mary C. McCarthy

Secretary,

Zoning Board of Appeals and Planning Board

Town of Whately, MA