TOWN OF WATERTOWN

Zoning Board of Appeals

Administration Building
149 Main Street
WATERTOWN, MASSACHUSETTS 02472

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David Ferris, Clerk
Christopher H. Heep, Member
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Kelly Donato, Member
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MINUTES

On Wednesday evening, May 24, 2017 at 7:00 p.m. in the Richard E. Mastrangelo Council Chamber on the second floor of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: Melissa SantucciRozzi, *Chair*; David Ferris, *Clerk;* Kelly Donato*, Member;* Christopher Heep, *Member; Neeraj Chander, Alternate Member;* Jason Cohen, *Alternate Member. Absent: Member*; John G. Gannon. Also Present: Mike Mena, *Zoning Enforcement Officer*; Gideon Schreiber, *Senior Planner*; Louise Civetti, *Clerk to the ZBA. The board notes Member Gannon arrived at 7:24 p.m.*

Chair SantucciRozzi opened the meeting at 7:10 p.m. and explained the agenda; there are minutes for two months to be voted on; the case for 101-103 Morse Street has requested to be continued and the case to be discussed this evening is the continued public hearing for 23 Elm Street. She introduced the board members and staff. She announced that Member Gannon is running late and Alternate Member Cohen, who was in attendance last month, will be a voting member tonight. Should Member Gannon arrive, he will not be a voting member. She then swore in the audience.

Chair SantucciRozzi requested a motion on the minutes for March and April. Member Ferris motioned to approve the minutes from March and April. Member Donato seconded. Voted 5-0. Approved.

Chair SantucciRozzi announced the case tonight is **23 Elm Street** and noted Member Ferris wanted to speak.

Member Ferris stated that he has worked with Attorney Ross for a client that hired each of them separately. He stated that his overlapping work with Attorney Ross has no bearing on the case this evening.

Mike Ross, Attorney, Prince Lobel, representing the Petitioner, approached the board stating that at the last hearing, they were requested to come back to the board with better plans, which they hired Douglas Okum and Steve Weigh, Architects, to redraw the plans. He stated that they have been working on this for about 10 months and this began last year with Police Chief Lawn, the Town Council, the public in the form of a community meeting and they then received a favorable vote (6-3) from the Town Council for a Letter of Non-Opposition. He mentioned the Community Host Agreement, which has a minimum of $200,000 and an additional $100,000 for incidentals. They received a 4-0 vote from the Planning Board and are now in front of this board to open a medical dispensary with no delivery. They committed to the Town Council to only do Medical. They will operate the center every day from 8 am – 8 pm, 7 days a week. The location is in the RMUD zoning district. This property has three buildings and they are in building two which is obscured by building one. They will occupy 2,988 s.f. – this was revised and increased a few hundred feet. He continued by stating they are not within 500' of a school or where children congregate, which is a requirement of DPH; this does not include exterior alterations, except signage; and they will not change the building envelope. They chose building two because it is set behind building one as it is not visible but will be safe as shown on the security plan by Krell Security. The center will not be a nuisance as shown on the traffic submittals from Hayes; the center is not expected to cause or exceed the conditions that previously existed. They have 22 off-street parking spaces – 21 are for patients and one is for an employee van. There was a concern with a “pinch-point” at the northwest corner of the building and an issue for a parking space. They removed three parking spaces at that corner to allow for a smooth parking arrangement. They are committed to Watertown; they are offering discounts to low-income patients; they are working closely with Watertown on education around the dangers of cannabis especially around youth; they will hire local residents to work in the dispensary an well as building the dispensary (he pointed to several members in the audience that are from the building trades who are there to support this); this will help Watertown to help residents and he suggested there is a patient in the audience. He said the location is in an industrial area; will offer 18 off-street parking spaces (plus the van); offer intensive security measures to ensure there is no loitering, distribution to minors or consumption on the property.

Chair SantucciRozzi asked that they explain the revisions on the plan; including the increase to the square footage, which changes the parking requirement; the layout is sub-par and some of the spaces do not function. She commends them for trying to come up with something better and she believes there is room for improvement.

Attorney Ross said the Traffic Engineer could not be there but they asked him to sign off on their plan. He read from a memo submitted by the traffic engineer stating that the revised parking meets the requirements for his Traffic Engineer stamp. Chair SantucciRozzi said architects do not lay out parking and as they look at this again, their civil engineer can update the plans.

Steve Way, Architect stated they were hired after the last meeting and attempted to provide updates in regards to the Board’s requests. They have attempted to remedy the parking; added additional site lighting to the sides and front of the building to reach out to building one (drawing A4). The new lighting is shown with the light symbols in yellow – the northeast corner (left side) has dual head lighting and the other corner has one to face parking so as not to go into the other area on the other site. New site lighting in the middle of building two and two more on the right side (southern end).

Chair SantucciRozzi confirmed the non-yellow site lighting is the existing lighting and the yellow highlighted lighting is the proposed. She noted there are two notations – one states ‘new flood lighting’ on building and in the key it states, ‘new wall pack lighting with full cutoff’.   She asked which would be installed. Mr. Way said they included the lighting in the packet and it will be the wall pack lighting with full cutoff. He then added that they will not be dual-head, they will be this wall pack.

Chair asked why they were not changing all of the lighting. Mr. Way said they were looking at cost but if a requirement, they will do that.

Mr. Way said the dumpster screening location is the north side of the parking. The existing dumpster locations are not part of their lease. They will be storing their trash inside. They do not have exterior debris storage whatsoever.

Mr. Way said on page A-8, the front entry shows the doors are only 5’ apart as an existing condition. That does not meet the current code so they extended the entry to 7’.

Mr. Way commented on signage on the site as minimal – page A-7 shows what it could be, just above the door and on the door itself. The owner has not approved this and the sign permit process has not been started.

Mr. Way said having signage on the road is difficult to find a location that is suitable. There is a walkway and light poles in that area. They need to assess this area more and there is not any green space on the lot.

Mr. Way reviewed the changes to the parking. Chair asked if the new parking requirements would be closer to 10 spaces. Mr. Mena verified that the new parking would require 9 spaces based on the additional square footage acquired at 1 per 350 square feet of retail space. He continued: the site requires 42 parking spaces and the revised plan shows 50 parking spaces. Chair said her calculations show they require 38 parking spaces.

Member Gannon asked how many parking spaces were in his lease. Mr. Way said there are 22. He added that they are adding two parking spaces on the side of the building and changing the current layout of the left side (northern side of the building) – they are taking out 3 parking spaces and replacing it with 2. All other parking is remaining.

Chair opened the meeting for the public to speak:

Rich Antonellis, Electrical Contractors Local #103, said he is representing 140 members that are residents of Watertown. They have attended the planning board and the community meeting. They believe Natural Selections is a good fit for Watertown and the Community Host Agreement at $200,000 per year shouldn't be overlooked. The applicant has earned the trust of the community with this petition on-going for over a year. They have met with the abutters, the elected officials, held community meetings and they have answered their individual questions with children in the town. They wanted to be certain their voices were heard in supporting this petition. Local residents spoke in favor for other reasons – patients that will use this facility is important to them. Their commitment to security by hiring Krell is also not overlooked. This is a good fit.

Nicole Snow, Executive Director, Consumer Advocacy Alliance, said she is representing the initiative that was passed in 2012 regarding medical marijuana. She is impressed with the team of people to bring medical marijuana to Watertown. They need more non-profits that are dedicating themselves to their patients that need medical marijuana. They need a more clinical environment. The union is out to support the workers and they want them to provide good quality craftsmanship to the patients.

Peter Blighburg, Coolidge Avenue, said he lives close to the site and is advocating for this distributor. This hearing is to approve this location as the council members already voted 6-3 to provide this service. He has Parkinson's (disease) – a chronic disease with no cure. Those afflicted are looking for relief from symptoms that a lot of medicines don't supply that relief. This is offering the community something of value that they cannot get elsewhere. He ended by stating that he would walk there and not to worry about parking for him.

Angie Kounelis, East End Town Councilor, 55 Keenan Street, stated that she is one of the three descending votes on the Town Council. She has made her position clear throughout the entire process. She understands the need for medical marijuana. Many communities have stepped back to look at the recreational marijuana and this petitioner has agreed to not sell recreational marijuana unless the rules and regulations change at the State level. She said that if marijuana is allowed to be sold at one of these facilities, they will have it in Watertown. She added that this is not about a patient and physician issue - this is about the location; this is about medical marijuana in the East End of Watertown, which continues to be the dumping ground of Watertown. She said that the abutters are vehemently opposed. She hoped the communication had been forwarded to the boards' files as they (the abutters) are not here. She added that these residents are burned out and are no longer attending the meetings as they feel it is already a done deal. She said the Host Agreement has already been stated to be a benefit to Watertown and asked but at what cost. She stated that everyone talks about the money but it's about the quality of life in the East End of Watertown. She said this is not within 500' of children congregating, it is within 650' and she believes children will walk up the street; the other 150'. She said if this board votes to approve this, they should then consider the request for (this to be open) 7 days a week. She added that this is inappropriate in their East End community – there are residential properties immediately abutting this site; there are residential properties within 500'. She asked the board to think about what is happening in this community as residents have stated they have allowed everything and anything to come into Watertown.

Attorney Ross stated his client gave up a lot when he agreed to no recreational marijuana - with a direct effect to his bottom line. He wants the board to be aware of how they are describing that (portion of the agreement). He read: here are the ways one could sell recreational marijuana: 1. If legislation is passed or amended by the Commonwealth of Massachusetts requiring that RMD's undertake recreational use for continued operation. 2. If the town enacts an ordinance or passes a ballot question in accordance with the applicable law, authorizing recreational use. 3. An unaffiliated entity from the operator is authorized to open a recreational use within the town – only then would they be able to come back to the town to pursue recreational. He added that this is a high bar to be able to sell recreational marijuana and this is what his client has given up.

Chair said the State controls the first one and Watertown controls the last two and the State mandates that they must sell it. If they say they will shut them down unless they sell it, then they would.

Member Donato asked about the ATM being shown (A7), if the DPH authorizes. Atty. Ross said it may be possible to be allowed before they open (if DPH authorizes). The rules are more liberal here than in Colorado. They have Century Bank here but in Colorado they use cash and cash is being turned into hard goods like diamonds and they are putting them in safes in their homes and then crimes are occurring at their homes. Massachusetts has liberalized those rules to allow some form of banking (provided it doesn't interfere with Federal). If the ATM is not allowed, they won't put it in.

Member Donato asked about the two parking spaces to the right on the south side – tandem (between building 3) and stated they are really tight. She tried to park there with her own car and it is very tight. Atty. Ross said their traffic engineer will write up a memo to state that they are within the requirements. If they are outside of the turning radius, they will write that in the memo. If they have to move the positioning, they will do so.

Member Donato said the location of the bike rack is so low and cars are parked right up against it. She asked if a buffer can be put there between the bike and the curb. Mr. Way said they chose that spot as it was covered but they are willing to add "bollards" to the drawings.

Member Donato asked about the trash storage on A8 and about the amount of space needed. Atty. Ross said they did not focus on an internal layout and focused on the external layout of the property. There is zero consumption on site. There is no product that will be disposed of at this location – no matter what. Any damaged product must be returned securely to their Fitchburg location. The only thing that would be thrown away would be those things used in an office – an empty spool of adding machine tape, discarded papers, etc. There should not be anything generated on site. They are contracting with a company that will take their (trash) toter, roll it out and empty it. They will only store a (trash) toter or two near the interior door. Mr. O'Donovan said they have a small dumpster in Colorado and it is emptied twice a month and it is barely full. They will hire someone to take the handful of trash cans out weekly.

Member Donato asked if anyone was here to represent 36 Arlington Street. They (the Board) received a comment regarding access to the dispensary over their property. She stated that there is a fence that separates 36 Arlington Street from this property on both sides and there are dumpsters on the 36 Arlington Street side of the fence that block any potential egress. She added that their application did not indicate that they were requesting access. Atty. Ross said they have no intention of using an easement – they do not own the property and they will never use Arlington Street. They had an applicant appear at one of their hearings wanting to do a dispensary (at that address). They have no intention and will not go through Arlington Street.

Member Donato will want to review the hours of operation and at least a 6 month review by the board. Atty. Ross welcomes the ability for the board to review them going forward. They could be shut down if they do not do what they say they will. They want the convenience of the hours 8 am – 8 pm, 7 days a week for their patients. He added that the supporters in the audience are not all from Watertown - 3 are not and 4 are. Mr. O'Donovan stated that throughout all of the meetings they have attended, they have maintained the request for these hours. It is important to be open 7 days a week. They will check back in at 6 months should the board want them to but they will be regulated so carefully by the DPH that they would be shut down if there are any faults.

Member Ferris noted the correspondence from 36 Arlington Street and stated that on a prior floor plan submitted by the petitioner and after driving around the property, that there is reference to the rear wall of the building which abuts the neighboring property, that the windows will be concealed of security mesh; the door will be sealed, closed and bolted shut. Atty. Ross confirmed that is correct.

Member Ferris asked if the only correspondence that this board received is the letter from 36 Arlington Street. Ms. Civetti said there is no other correspondence sent to this board. Councilor Kounelis stated the Town Council received information before they voted. These did not make it to this board's packages. There were emails from residents, pro and con. She said she cannot answer why they are not here tonight. Member Ferris confirmed that this board has only received this one letter.

Member Ferris asked what would happen if someone were hanging out in the parking lot; how will they know something is happening and who will be monitoring it. Atty. Ross said they hadn't carried over all 7 security cameras that are on the plan – there are two in the front; two on the southwest portion of the building; two on the right side and a single camera at the unit line. Mike Griffin, Retired Boston Police Officer, representing Dan Linsky, said the floor plan shows 7 state-of-the-art security cameras with "mutual link", which is linked directly to the police department. The police can monitor this directly. Member Ferris asked if the police will then be monitoring this. Mr. Griffin said that is not necessarily the case. When the business is operational, the front desk will be monitoring the cameras. He said he expects the employee to be alert to strange things – a raincoat wearing person on a hot day, etc. Atty. Ross said there will be a 24/7 human security person on site – they have just decided to do this. There will always be someone there in a monitoring capacity. He added that the 'mutual-link' option technology may or may not be exercised by Chief Lawn (Watertown Police Chief). They will monitor their own site with Krell by 24 hour human monitoring and by technology. They also have the ability to call out from these cameras (can I help you?). They will be happy to walk members through the technology once it is installed.

Member Ferris said he has mixed emotions about the site – being out of site (from the main street) provides less visibility, which could be a positive thing and is also hidden so from a security stand point could be less of a positive. He wants to be certain that the patrons that are frail are protected if something were to happen to them in the parking lot and hopes there isn't a 7 minute wait time for someone to respond.

Member Ferris asked about building #3 and if there is a delivery door in the rear. Atty. Ross doesn't know why there isn't parking running parallel to the rear of the building as they are only focused on the parking for their purpose. Atty. Ross said he would consider that in review of Ms. Donato's question regarding the two parking spaces along-side building two.

Member Ferris commented that it is good to see that the accessible entrance has the appropriate clearance but it is not provided for in the reception area. He said when doors are in a series, the code is 7' – it is provided in the vestibule but not in reception.

Member Ferris said the last concern is that the grade is pitched backwards at the entry door. It is supposed to be level for 5' beyond the door and then a 1/12 pitch maximum to grade. He added that the emergency egress could easily be blocked by a car. Atty. Ross said they will look at that in their overall parking review and they could add a push-button at the outside door.

Member Ferris has concerns about the hours of operation at 12 hours a day, 7 days a week. He suggested a closing time of 6 p.m. to be considerate of the people living somewhat close and to be considerate of the people in the hotel.

Member Heep said the application has been presented well and is comprehensive. He believes this petition is deserving of approval by this board. He will look forward to getting into a discussion with the board regarding conditions.

Member Gannon asked if the mitigation agreement has been signed. Atty. Ross said they are waiting for approval here (at this board). The Town Manager is in possession of a signed copy by them. Mr. O'Donovan added that the Community Host Agreement cannot be changed. It is just waiting on the Special Permit to be approved before they get the letter of non-opposition.

Member Gannon asked if they were to purchase the property, the mitigation agreement states they will not seek charitable exempt status and would pay all taxes as owed to the town. Atty. Ross agreed that that is in the agreement.

Member Gannon asked if they were to purchase the property, the mitigation money would still be in effect. Atty. Ross agreed that would still be in effect.

Member Gannon asked Staff if they requested a report from the Watertown Police Department on whether or not they approved on the security plan on this site. Mr. Mena stated they do not have a report in hand but the Director did address the question at the last meeting stating that the Chief of Police was not ecstatic about the use but did not express any concerns related to the security plan proposed or the security on the site. Atty. Ross stated that Mr. Linsky met directly with Chief Lawn and he was in that meeting. These two men have a prior working relationship from the events that happened in Watertown.

Member Gannon asked if Chief Lawn had any push back to the location. Atty. Ross said he interprets his words to mean that if it had to go anywhere, this is as good a place as any. Both Mr. Linsky and Chief Lawn were against the legislature on this topic; however, Mr. Linsky cared for a neighbor with cancer and that turned him around on this topic. He wants to make this as safe as possible as it isn't about whether or not they like it.

Member Gannon said the Chief didn't become unopposed, he stated he would prefer a different use for the property.

Member Gannon asked about a typical supply required by a patient. Mr. O'Donovan said the average would be about $100 – he doesn't wish to say typical for any of the medical marijuana. Someone that lives closer may get a couple of week's supply while someone living further away may get a month's supply. Typical range $20 - $200. Mr. O'Donovan stated that the peak number of patients in an hour would be 15-20. The typical purchase time is about 15 minutes. The range would be 5–10 patients an hour to 15-20 patients an hour peak. There would be more patients if there were less hours. He believes the parking is sufficient. No employees would be parking on site – there will be an employee shuttle service. They hope to have local employees which will be picked up at their home.

Member Gannon asked if their lease included prohibiting the landlord from leasing any other building to a childcare center. Mr. O'Donovan has spoken to the landlord about this. He said it is not forbidden and there is no legal statute if the landlord should decide to do that in the future. He added that the leases are all long-term.

Member Gannon said he is concerned about the proximity to children at the mall. Mr. O'Donovan said that the belief is that children shopping at the mall will get their hands on medical cannabis; however, there is a detailed security plan and it isn't a probability of a child being able to wander from the mall into their parking lot and then into the dispensary without being stopped.

Member Gannon asked if this (medical dispensary) is making it more attractive to teenagers. Mr. O'Donovan said that teenagers that get their hands on cannabis are getting black-market cannabis from adults who get it from other countries. The market for adults to get black-market cannabis is declining in Massachusetts and they are contributing to that. He added that the adults who needed the cannabis for medical reasons had to get it on the black-market but now it will be regulated medical cannabis. Mr.

Mena added that state law defines 'where children congregate' as somewhere where there are regularly scheduled classes like the center for the arts so the mall does not have regularly scheduled classes and does not meet the definition.

Member Gannon stated that this is up to the satisfaction of this board and he is determining if this is an appropriate location for this facility.

Member Gannon asked if lighting will be 24 hours. Mr. O'Donovan said the lighting is when the sun goes down and then by motion sensor.

Member Cohen asked about the parking – is it over-parked or at least sufficiently parked. He added that they are cramping in a lot of parking in a smaller space. Mr. Mena confirmed that this space requires 9 spaces and the site would have 12 spaces over what is required by code. Atty. Ross said through the community process, a lot has changed and is still changing. The prior concerns were that there would not be adequate parking available. At that time, Mr. O'Donovan went back to the landlord to request additional parking spaces and paid for the additional parking spaces (at $250 per month each). If the board states that this can change, then it will be. However, they wanted to over-achieve all requirements. Member Cohen said this board is the one that states how much parking is required. If this board is telling you there is only 9 spaces that are required, then there is no need for the additional parking. He added that there isn't the ability to add these spaces to the lot. Mr. O'Donovan stated that they have paid for these additional spaces; they will forgo some of the controversial spots. He did not want to have any concerns coming into here. He appreciates the board stating this. Member Cohen said the board would want him to 'overachieve' in the area of security but parking is an area that can be 'eased off' of from this board.

Member Cohen asked to clarify that this might be a non-profit organization. Mr. O'Donovan said the state requires all medical marijuana to be non-profit. Atty. Ross said Massachusetts was chosen to be a non-profit state in regards to this. Colorado is a for-profit regime. He added that they will not be recreational and he does not know how Massachusetts will handle the recreational aspect.

Member Cohen asked how this relates to the pricing for product. Mr. O'Donovan said this is not regulated by DPH and it is what the market will bear. Atty. Ross said this is higher priced than the street product as this is high-grade, medical marijuana, where experts can manipulate the plant for the best effect.

Member Cohen stated that regarding Councilor Kounelis' comments about the feelings by the constituents in the town and he understands that not everyone can make it to every meeting in the town; however, he hasn't gotten the impression that there is a tremendous amount of opposition to this. He hasn't gone to the community meeting or the Planning Board but the local residents are aware that the ZBA is the last stop on this approval process and they have shown up and made their voices heard for previous projects like the CVS and the Elm Street hotel, he is surprised that if there is so much opposition to it that they are not here to voice that. He continued that when the hotel project was before them, they listened to the public and denied the hotel. He added that he is not questioning the assertion regarding the constituents but he is not seeing it.

Mr. O'Donovan said in 2012, question 3 on the ballot showed only 17% of the Watertown voters were opposed to medical marijuana – he added that this a huge statement.

Member Chander asked about the hours of operation and delivery. Mr. O'Donovan explained that the delivery is 7 am or 9 pm under the supervision of two registered agents as well as the on-site security guard. The delivery is in-depth and comprehensive when it comes from Fitchburg to them. The deliveries are made regularly and are not huge. They do not make deliveries that are worth thousands of dollars. It is a bin, not unloading trucks. Morning is a preferable delivery time.

Councilor Kounelis asked staff if all of the information that was provided to the town council, including emails and public testimony was shared with this board as it is important – there were subcommittee reports that would be relevant to this board in making their decision. If not, it is unfortunate. She added that she testified in front of this board at 10 minutes to 12 midnight and that is too much to expect from the general public to be here. The over-all vote of the town is not in question; it is the immediate abutters to this site that are opposed to it. She added that if someone resides in the "lace curtain" section of Watertown, their vote should not be taken as heavily as the person that abuts it or resides within 500'. They should have a kiosk at Victory Field and no one would like that as that is how the "east enders" feel. She is disappointed that the material that was shared with the town council was not shared with this board.

Member Gannon stated that he had asked staff at the last meeting to provide everything that was provided to the town council and all he got was the mitigation agreement. He wants to know why. Mr. Schreiber stated that he understood the request to be what was approved by the town council process and not every single piece of information. Member Gannon added that it was discussed that there was a 300-page document and he thought it only fair that the Zoning Board be provided with similar information. Mr. Schreiber added that the information is on-line and they did not provide the hundreds of pages of documents from a separate (town) process.

Member Ferris said he personally feels he has enough information to make a decision with the testimony that has been given. He said that for other applications, people have waited outside at 11:00 at night to call him names and that is not happening here or last month. He takes that at face-value.

Member Gannon said he wishes to have had access to that information or at least had a source to refer back to at town council meetings especially where he had asked for it and it didn't happen.

Chair SantucciRozzi said she has taken notes on the discussion that will need to ensue: delivery, ADA accessibility, hours of operation, wayfinding, lighting and consistency of the drawings, the access form only Elm Street, an annual review, interior floor plan for the changes to the entrance, parking and circulation (nothing will cause more circulation issues than the inability to get in and out of a parking space on the site). She stated that they are required to have 9 and it is a great idea that they want to provide more than that but if they are impossible to get in and out of, then get rid of them. She specifically asked about the two parallel spaces next to the building – are they going all the way down, turning around and then parallel parking facing out? Atty. Ross said they would be happy to remove those. Chair added that the Hayes memo has to be updated as the square footage is inaccurate, the calculations are in accurate and the parking layout will need to propose something that will work for their customer. She said that she means no disrespect to architects but that is not their purview. They do not work in parking and circulation and if a civil engineer spends a little bit of time looking at this, they can propose something that works for you, your customers, your employees, and then the spaces that are not the best spaces can be designated for your employees and your shuttle. That will be something to condition – whether or not 9 spaces will suffice for the operation of this facility; parking the car, getting in and then getting out as quickly as possible. Atty. Ross said he appreciates the direction of the board and their traffic engineer will know exactly what to do to fix that. Chair added that it is not just a number – it is the quality and the caliper of the space as one good space is better than 3 terrible spaces.

Chair said she didn't have any further questions and asked the board if they were ready to close the public hearing. Hearing none, she asked the audience if they had any other questions.

Councilor Kounelis stated that she is starting to take this quite personally when she is challenged as to whether constituents return to meeting after meeting – she is here as the elected representative of the "East Enders" who have spoken previously and submitted their written documentation should be adequate. She is speaking for those people. She said that material is on file as public information; public record and should be provided to this board. She added that she takes personal offense because her name was used and she is responding.

Member Cohen stated that he meant no disrespect to her representation of her constituents. His point is that he has seen (members of the public) here on many occasions regarding matters they feel strongly about. His conclusion is that this is the second hearing and he does not recall anyone, aside from Ms.

Kounelis that has appeared to speak against the petition. He repeated that when there are no members of the public appearing or speaking out against this, he takes that at face value.

Member Ferris added that he has a lot of respect for Ms. Kounelis and her passion for the best ways to proceed. He said he lives in the east end and his support and opposition is much more animated at some meetings.

Member Gannon stated that this application hearing did not start last month until 11:30 p.m. and it would have taken a 'hearty soul' to stay that late. He had hoped to read some of the comments from the public.

Chair SantucciRozzi said the board has had many hearings where the public attended and the board does accept written comments from the public. She read from one written comment received and dated Tuesday, May 23rd and addressed to Chairman Sideris, not to this board. She read the letter into the record: "I am a trustee of the Saraceno Trust, owners of the property at 36 Arlington Street, which abuts 23 Elm Street, the location for the proposed dispensary. We are concerned about the proposed location. The property does not have site lines from the street to enable monitoring the activity and the location at the back of the site is likely to make it an area where people gather and hang out. In addition, 36 Arlington Street has given a right-of-way to 23 Elm Street and access to the dispensary over their property would be troubling on many levels. Richard Gaffey, Elder, Gaffey and Paine, PC. She added that was received today and the only letter received in opposition.

No other comments from the audience were heard. The public hearing was closed and a business mode declared.

Chair SantucciRozzi noted the April Planning Board report and stated that this board heard this case in April where they asked the petitioner to come back to the board having 'fine-tuned' their drawings and with additional material. They have come back with additional material, some of which they like and some of which needs consistency among the drawings. She said she addressed some of the following items in her statement but would like to review these as most will become conditions.

Chair SantucciRozzi said the hours of operation may dictate delivery, etc. They want to be open 7 days a week, 8 am – 8pm and the board members feel that is too much. She wants to hear from all members how this should be tweaked.

Member Donato said that she is surprised that Sunday is on there. She understands not all patients have a Monday – Friday job but want to be considerate of the neighbors, as well.

Member Ferris said he wants to be respectful of the hotel guests, as well and would consider closing at 6 pm on Saturday and Sunday.

Member Heep hasn't any issue with Saturday hours, generally and shortening the window on Sunday is customary for retail on Sunday.

Member Gannon would concur with shortening the hours on the weekend and daylight delivery.

Member Cohen agrees with shortening the window on Sunday, 10 – 6pm.

Member Chander agrees.

Chair Santucci asked about Saturday...
Member Ferris said Saturday is fine 8 – 8.
Member Donato would like to see a reduction on Saturday.
Member Heep is okay with 8 – 8 on Saturday.
Member Gannon would support a shortened end time on Saturday.
Member Cohen suggested 8-6 or 10-8 for Saturday and 10-6 on Sunday.
Chair SantucciRozzi said Sunday, 10-6 and Saturday 10 – 8.

The Petitioner suggested shaving time off of a Tuesday or Wednesday. They would prefer to shave hours off of the morning, rather than evening. Chair said that they would like to shave the weekend and they will shave off both ends on Sunday and leave Saturday as it is.
He suggested that they Saturday hours stay as they are as they do not want people hanging out in the Target parking lot waiting for them to open.
Chair SantucciRozzi said they are looking for 8-8 and this board will require an annual review. The board is not strong on the hours for Saturday and 10-6 on Sunday. Member Heep repeated that they will have the hours during the week at 8 – 8 with an annual review and 10-6 on Saturday and 10-6 on Sunday. All board members agreed.

Chair SantucciRozzi asked about delivery. Mr. O'Donovan said morning is what he is hearing and they would like to include times when they are open as it does not have to happen before business hours. Attorney Ross said Dan Linsky would probably like to have more random hours. Chair SantucciRozzi said she would prefer to have the deliveries during the hours they are open and daylight hours. The Petitioner said they can limit it to daylight hours. Chair SantucciRozzi said to limit it to operating hours and Member Gannon suggested operating day light hours. Chair SantucciRozzi agreed.

Chair SantucciRozzi said the board talked about the parking plan and updating the parking memo. She asked Mr. Schreiber if he was okay with taking that on from here and if he was clear. She does not feel the need to have them provide more or less parking. The engineer will provide the number of parking spaces they are required to have. Mr. Schreiber asked if they want a condition with the number of spaces required. He said if the board requires that they condition the extra parking spaces, they are tying up the parking for other business uses. Chair SantucciRozzi said they are required to have the amount of spaces required by the ordinance, which is 9 and she doesn't have an opinion on a greater amount. They are going to lose 3-4 spots and they are still going to exceed the required amount. It is not a high parking generating site. They can include in the annual review is hours, delivery or anything in the conditions that isn't working. The petitioner may come back and say they need 20 spots. They can do a modification to the special permit to make it work better for them and the town. There is going to be surplus spots and they can use them but she doesn't know if they should tie them up.

Member Ferris will rely on the number of parking spaces set up by the town. He feels strongly about the parking space not blocking the second means of egress. Mr. Schreiber said he would be certain that the key areas and the exits have the requirements for building code and more than that, he would assume that the spot at the far right would be removed as a part of this (and Mike crossed it out on his plan). He would make sure those items are addressed as part of the updated plan.

Chair SantucciRozzi asked if they are going to have wayfinding on the site. Will they be directing their patients via email, social media or some other format? Mr. O'Donovan stated that would be done on-line with explicit instructions on where they are located. It is in their best interest to be detailed.

Chair SantucciRozzi asked if their parking layout will have signs in the spots. Mr. O'Donovan stated a condition of their lease is to have signage in each of their parking spaces.

Chair SantucciRozzi said the traffic person really should be involved where there will be poles, bollards, doors, etc. Someone needs to take a look at it for tasteful signage to be clear and not obnoxious. Attorney Ross said he has been working with clients on having low-key signage. Chair SantucciRozzi said the lease requirement is bringing attention to something that is unnecessary. Mr. Schreiber said a sign permit requires detail plan and a wayfinding plan. He suggested perhaps a painting program. Chair said the pavement markings are tough as they are not visible in the winter. The landlord may be getting ahead of himself in wanting things that may not be necessary. She added the wayfinding having an arrow pointing to the rear.

Chair stated the floor plans need to be updated to address the concerns by Member Ferris. The other plans will be updated including the floor plan with the correct square footage and noting where the trash will be located (not in the reception area, which is not appropriate). As low-kay as the trash can be stored inside is the goal.

Chair said the lighting plan and other drawings (A6), show double-headed fixtures; and A7 shows new floodlighting which looks different than the detail – she said they are going to have box cutoff fixture and all of the lighting will be upgraded – no floodlighting. They will turn off one hour after close and then on sensors. All of the site lighting will be upgraded with the new fixture. The detail on the last page is what they like (LED medium wall pack cutoff, non-glaring, shielded).

Chair said the bike rack and the bollard situation may have a better location when the sub-parking spaces are removed. There may be an opportunity to cover it a bit. It will probably not be in the area it is shown now. They are probably going to want to limit the projections coming up from the ground, as well (with the parking signage, etc.). Mr. O'Donovan clarified that they are to move the bike parking so they do not need the bollards. Chair added that it is near someone else's door and it could even go on the side when they get rid of the two parallel spots.

Chair said there will be a condition that limits the access from Elm Street only. They expressed that as a desire, as well (as opposed to Arlington Street).

Chair discussed the annual review, stating this has been done on projects in the past and they want to leave it as open as possible for security to them and the town and to provide them with the opportunity to change anything regarding the operation, the site, any conditions – the board typically will receive a letter stating how they are doing; what they want to change, etc. It is an opportunity to check in.

Member Gannon asked what the purpose of the shuttle van is. Mr. O'Donovan said the shuttle is solely for employees. Chair interjected that the other note she has was no deliveries and no pick up. Mr. O'Donovan said it will cost them a little extra to have a driver every morning but it is worth it to save the parking spaces. Chair reiterated no delivery and all purchases are done on premises.

Member Ferris said the access through the main entry will rely upon the satisfaction of the Building official with the ADA compliance. Chair added that the internal will have to comply as it is changing. Member Ferris added that he is not certain of the requirements for the inside and the outside.

Chair said the exterior access should have a condition that all applicable ADA apply or that are triggered by this work, will be complied with. It's important given its use and the probably clientele. They do not want anyone rolling backwards into the parking lot. Atty. Ross said that the ADA laws are complicated. Chair added that she is not saying that it has to be ADA compliant; she is saying that whatever the amount of work that they are doing that may trigger the requirements should be adhered to. She added that the outside may also need to be changed, depending on what they are doing but the inside will have to comply. She will let the building official relay that information but whatever they are triggering, they will comply with.

Member Gannon said the Host Community Agreement, as the attorney with the division of local services, municipal finance law bureau, said the HCA references MGL Chapter 44, Section 53A – which is a gift statute. He then suggested the HCA was flawed due to the legal use of the funds. He added the Planning Board added a condition to accept the HCA but he is not comfortable with how it is stated.

Councilor Piccarelli said the Town Attorney advised that this particular agreement would be a gift and would go into a revolving fund for expenses for the mitigation that directly impacts this facility. This should not be general fund revenue. Member Gannon said that the money doesn't fit into the revolving fund statute either. It is not a mischaracterization, it's against the law. This is general fund revenue that must be expended by the appropriation process from the town council. Councilor Piccarelli said the Town Attorney advised them. Member Gannon said this money cannot be spent by the Town Manager… Chair SantucciRozzi thanked Member Gannon for his concern and stated that they are not for this board. The town council had several meetings regarding this and vetted this document. His comments should be directed to them. This board cannot change this document. She added that the board can add a condition that this be clarified. Councilor Piccarelli said the question that came up was if this should show up in the budget as a general fund and then show like the hiring someone in the health department to oversee substance abuse disorders. He said the council does vote on the revolving fund expenses. This was the advice of the town attorney and whatever the mitigation funds – police department, health department, whatever they needed to pay for. Member Gannon asked that he have a legal opinion from Kopelman and Paige. Mr. Piccarelli said this is not a zoning mitigation measure; this is a separate contractual agreement. It is not mitigation. Gannon stated again that c. 44, s. 53…it should be considered general fund. Mr. Schreiber said Member Gannon could send exactly what he wants to be asked to him and he will ask, through his department, for clarity from the town's attorney.

Member Heep suggested that Member Gannon's comments be funneled through staff to the council and not be memorialized in our permit. He would not want a condition in this special permit to challenge the terms of a host agreement that had been vetted by town council, signed by the applicant and sent to the town manager. The condition should remain as is so as not to have this board insert itself into an agreement that is far along and not within this board's jurisdiction. He added that Member Gannon's comments should be addressed and he is not challenging what Member Gannon has said, he just does not want this board to become involved in the finer points of a document that has already been negotiated.

Member Gannon said he agrees that this could be handled with the definition of completion of the agreement and he withdraws his request. He will convey his concerns to staff. Chair SantucciRozzi suggested that if Member Gannon could speak to Kopelman and Paige through staff to avoid any miscommunication.

Chair SantucciRozzi said the draft conditions that were printed will have #9 change and will allow for interior trash storage as well so they can have exterior if the landlord allows them to do that. #10 modified the Sunday hours; all others will appear as new conditions. She doesn't see any conditions on security. She would consider having it state that it has to be at Watertown Police level of satisfaction – (Mr. Schreiber said the state controls this) she added their security complies with DPH requirements and if there is something more (Watertown Police) that will be added. Member Ferris said it sounded like the security cameras would be on all sides of the building and he has not seen a drawing that represents that.

Chair SantucciRozzi said all of the documents (plans) will need to be updated before they are brought through to the Staff who will check them. Staff will draw up the conditions as discussed this evening. All of the cameras will be shown in the right places, the doors, the parking, the bike racks, the lighting – everything will match and flow from drawing to drawing.

Member Ferris motioned to approval the appeal for a special permit for the use at this site for a medical marijuana facility with the conditions discussed. Member Heep seconded. Voted 5-0-0 with members Ferris, Heep, SantucciRozzi, Donato and Alternate Member Cohen voting as a full member, voted in the affirmative. Member Gannon and Alternate Member Chander did not vote.

Member Heep motioned to adjourn. Member Donato seconded. Voted 5-0, meeting adjourned at 9:47 pm.