



Town of Brookline

Massachusetts

PLANNING BOARD

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To: Brookline Board of Appeals
From: Planning Board
Date: October 10, 2018
Subject: Add a Recreational Marijuana Dispensary (RMD) to a Medical Marijuana Dispensary

Location: **160 Washington Street**

Atlas Sheet:	37B	Case #:	2015-0002
Block:	185	Zoning:	G-2.0
Lot(s):	01, 02, 03	Lot Area (s.f.):	±9,663 (lots 01 & 02); 4,161 (lot 03)

Board of Appeals Hearing: **October 25, 2018, at 7:15 p.m.**

BACKGROUND

Spring 2018 - Town Meeting adopted zoning that enables the Board of Appeals to grant a special permit to allow Recreational Marijuana Establishments subject to a series of conditions and certain restrictions.

November 13, 2015, BOA Case No. 2015-0002 – The Board of Appeals granted a special permit to NETA to establish a Registered Marijuana Dispensary in the existing commercial building at 160 Washington Street.

November 2014 through March 2015 – The Selectmen’s Licensing Subcommittee met regularly to discuss establishing an RMD licensing process for the Select Board.

Fall 2013 – Town Meeting adopted zoning that enables the Board of Appeals to grant a special permit to establish Registered Marijuana Dispensaries (RMDs). A buffer zone of 500 feet around all K-12 schools was established.

FULFILLMENT OF PRE-APPLICATION REQUIREMENTS

The applicant has fulfilled all pre-application requirements for the Marijuana Retailer Application, including holding two community meetings, one six months in advance of filing with the Cannabis Control Commission as required by State regulations, and another one more recently on September 5th to review both the existing medical marijuana operations and to answer any questions on the proposed recreational marijuana use; submitting all needed plans and documentation to the various municipal departments, including Police, Health, Fire and Public Works; and providing tours of both the 160 Washington Street location and the applicant's affiliated grow facility in Franklin, Mass. to Select Board members and Planning Board members, as well as Town Meeting Members and municipal staff as requested. In addition, all requests made by Town Departments to meet with NETA to answer questions and/or address concerns were accommodated.

SITE AND NEIGHBORHOOD

160 Washington Street is located at the northwest corner of the intersection of Washington Street, Route 9/Boylston Street and High Street in Brookline Village. The two-story classical revival building, formerly the main branch of Brookline Bank, has a main entrance that faces the intersection and an entry vestibule on its side façade near the vehicular entrance off of Route 9. A parking lot is at the rear, which is bounded by MBTA tracks to the north. The property slopes down towards the parking lot and MBTA tracks. Immediately to the west of the property is a lot owned by Boston Edison Co. used for parking and utility purposes and equipment, which are screened with a chain link fence. Surrounding properties are primarily commercial, though the White Place residential neighborhood is nearby on the north side of the MBTA tracks. The property is located within the Brookline Village National Register District.

APPLICANT'S PROPOSAL

The applicant, New England Treatment Access Inc. (NETA), is proposing to establish an additional principal use, Storefront Marijuana Retailer (Use #29A, Section 4.07 – Table of Use Regulations), at 160 Washington Street, in addition to the already established and active current principal use, Medical Marijuana Treatment Center (Use #20B).

The proposal would require no alterations to the building's exterior, however, the original main door at the corner facing the Washington Street/High Street/Boylston Street intersection could be used as a working doorway for egress only. Previously, this entrance was retained as a feature of the building but was not a usable entrance for the medical marijuana facility. All other changes needed to facilitate the new use would be interior, consisting primarily of establishing new checkout stations in the first floor main lobby area.

FINDINGS

Section 4.07, Table of Use Regulations, Use #20B – Marijuana Retailers in addition to a **Medical Marijuana Treatment Center**: Marijuana Retailers are allowed by special permit in a G District, and all of the requirements under Section 4.13 must be met to be eligible. *Special permit required.*

Modification, As Necessary, Of BOA Case #2015-0002

Any Other Relief the Board May Find Necessary

STAFF ANALYSIS

In light of NETA's three year success in running its medical marijuana facility at this site, and the lack of serious problems and/or complaints that have arisen, the Planning Department maintains that it is appropriate to allow recreational marijuana in addition to the existing medical marijuana use, as long as safeguard conditions are imposed. It is of utmost importance that potential impacts including but not necessarily limited to traffic, parking and queueing be continually assessed by appropriate municipal departments and that, if necessary, the applicant remedy any identified issues.

An additional police detail, paid for by the applicant, should be required during the initial six months of operation and extended, if deemed necessary by the Police Department. It is anticipated that the second police detail will supplement the current detail as well as oversee any queuing along public ways, as expanded upon below. Further, the TDM Plan should be strengthened to encourage employees and the public to use means of transportation other than automobiles to the site, other than driving, especially because of the significant increase in the number of patrons projected to be using the site. NETA has arranged to rent 15 parking spaces at Hilton's Homewood Suites. If, for any reason, the hotel is unwilling or unable to provide these spaces in the future, the applicant should be strongly encouraged to identify alternative off-site parking to supplement the existing on-site spaces. Annual licensing by the Selectmen will provide another means of safeguarding the community from parking, traffic, queueing or security issues which might become apparent after its operations have commenced.

The Planning Department acknowledges and anticipates that queuing along the public way will occur during the initial opening of the facility. Therefore, the applicant is strongly encouraged to minimize any negative impacts of queuing on the public way during the commencement of recreational marijuana sales by employing creative ways to limit queuing including, for example, providing time slots, beepers or coffee vouchers. If there is any queuing on public property, the applicant shall be required to insure that a four-foot width sidewalk shall at all times be unobstructed by customers waiting to enter the facility. Further, the applicant should be required to work with the Police Department, Public Health Department and the Engineering and Traffic Engineering Division to insure that queuing does not present a nuisance or threat to public safety.

After an initial period of no longer than six months from the issuance of the certificate of occupancy, queueing should not be allowed by NETA on the public sidewalk, unless permitted under specified circumstances by the Director of Transportation and Engineering in consultation with the Police and Health Departments. It should be noted that under certain circumstances (such as the use of a tent) will expressly require a permit from the Engineering and Transportation Division of the Department of Public Works. Reevaluation of queueing on the public sidewalk can be undertaken at any point that the Town determines that it has become a nuisance or presents a dangerous condition in the opinion of the Police Chief, Director of Engineering and Transportation, or Health Commissioner.

A Host Community Agreement (HCA) between NETA and the Town was signed in April of 2018 and is effective for a period of five years, at which time a new HCA would be negotiated. The HCA contains requirements for annual payments to the Town, operations of the facility, compliance with the TDM, and annual filing. Reports from the Health Commissioner, Acting Chief of Police and the Director of Engineering and Transportation are attached to this report. The Transportation Management Plan compels NETA to comply with numerous mitigation

measures, including but not limited to: engaging a Transportation Coordinator, providing designated off-street parking, giving at least a 30% T-pass subsidy for employees using transit, and having on-site police details and staff parking managers. Most importantly, there will be an evaluation of traffic impacts at three months and 15 months, and annually from the Select Board during licensing renewal, with remediation required if warranted. The Director of Engineering and Transportation also recommends that the facility should not open prior to 9 am, Monday through Friday (8 am, Saturday and Sunday) to reduce traffic impacts to the adjacent daycare facility, where the majority of drop-offs are between 8 and 9 am, and school children crossing Route 9

PLANNING BOARD COMMENT

The Planning Board supports this proposal to co-locate adult marijuana use in the same building as the existing medical marijuana use. As part of the required preliminary site plan review process, reports were submitted to the Planning and Building Departments from the Departments of Engineering and Transportation, Police, Fire, Health addressing traffic, parking, security, and safety issues, and included recommendations for conditions to mitigate any impacts. The Planning Board noted Brookline residents' strong support for allowing recreational marijuana in the Town and NETA's good track record in its operation of the medical marijuana facility over the last three years.

The biggest concern for the Planning Board was related to the six month period surrounding NETA's initial commencement of selling adult use marijuana because of the crowds it may draw during its opening period and the possible queueing on the sidewalk that may result. One Planning Board member felt strongly that the queueing should be contained in the parking lot. Lieutenant Raskin of the Brookline Police Department was present at the Planning Board meeting and said this idea had been discussed previously, and it was considered a safety issue to mix cars and pedestrians. The Planning Board was pleased that NETA has agreed to the presence of a second police officer to help control crowds. At least four feet of the sidewalk will be required to be unobstructed at all times. If queueing becomes a safety or nuisance issue, NETA will be asked to find alternative solutions. NETA has already said that they intend to issue discounted vouchers to nearby coffee shops or other retailers so that customers could return at a later time when the line has diminished. Traffic and parking is another concern. Traffic will continue to be controlled by a police officer and several NETA staff, and NETA has secured 15 parking spaces at the nearby Hilton Homewood Suites garage for customer parking. Additionally, traffic impacts will be evaluated and addressed at three and fifteen months after opening, and then annually by the Select Board during the required licensing renewal process. Mitigation measures will be required to address any problems that arise.

Therefore, the Planning Board recommends approval of the site plan by Joe Casali Engineering and dated 10/29/15, and the proposed floor plans and interior elevations prepared by Dennis Colwell Architects and dated 08/16/2018, subject to the following conditions:

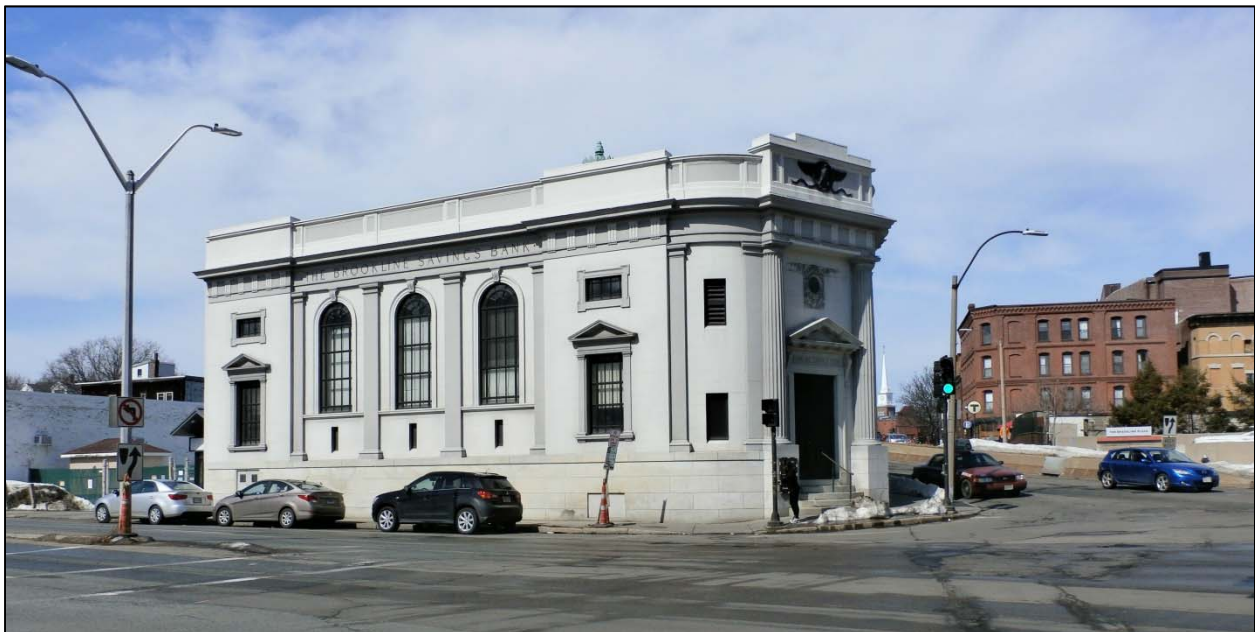
1. Prior to issuance of a building permit, a final site plan, prepared by a registered engineer or land surveyor, and indicating all parking spaces, bicycle spaces, fencing, landscaping, trash and recycling, and utilities, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.

2. Prior to issuance of a building permit, if exterior building modifications are proposed, final elevations, prepared by a registered architect, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
3. Prior to issuance of a building permit, plans for any alterations to the building's interior or exterior features shall be submitted to Preservation Commission staff for determination of applicability under the Town's Demolition Delay By-law.
4. Prior to issuance of a certificate of occupancy, the applicant shall submit a Transportation Demand Management Plan, subject to the review and approval of the Director of Transportation/Engineering and the Assistant Director for Regulatory Planning. The effectiveness of the TDM plan will be reviewed after a three month and 15 month period and during the annual licensing process by the Select Board. It shall also include a stipulation that at least a four foot width of sidewalk shall be unobstructed at all times.
5. If during the initial opening period of the facility, but no longer than six months, the Town determines that queueing on the public sidewalk has become a safety hazard or nuisance, the applicant shall meet with the relevant Town officials to identify and implement methods to eliminate any queueing on the sidewalk. Costs of same shall be borne by the applicant.
6. The facility shall not open earlier than 9 am, Mondays through Fridays, and 8 am Saturdays and Sundays, Any change to operational hours shall be subject to the Select Board, after input from the Director of Engineering and Transportation and Police Department.
7. All signage for the facility shall be approved by the Planning Board prior to installation and shall be removed in the event the entity ceases operations.
8. Prior to issuance of a certificate of occupancy, evidence of a valid license from the Select Board for a marijuana retailer shall be provided to the Building Commissioner.
9. The special permit is conditional upon the applicant maintaining a valid and current license or Certificate of Registration, as may be required, from the Select Board, the Massachusetts Department of Public Health, and the Massachusetts Cannabis control Commission.
10. Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner to ensure conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered land surveyor or engineer; 2) final floor plans and building elevations, stamped and signed by a registered architect, if there are any exterior changes; and 3) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.



Above: Aerial view of 160 Washington Street

Below: View of 160 Washington Street from High Street/Boylston Street intersection.





Above: West elevation of 160 Washington Street

Below: Rear parking area for 160 Washington Street

