

SUFFIELD ZONING BOARD OF APPEALS COMMISSION
MINUTES OF REGULAR MEETING
Tuesday, February 28, 2023, 7pm

Present: Mark Blackaby, Chairman
Susan Hastings
John Schwemmer
Despina Tartsinis
Gerard Chase, Alternate

Absent: Renee Pacewicz
Brian Michaud, Alternate
Victor Roy, Alternate

Also Present: Jim Taylor, Zoning Enforcement Officer
Ellie Binns, Recording Secretary
Derek Donnelly, Town Attorney
Carl Landolina, Planning and Zoning Attorney

The proceedings of this meeting were recorded and made available on the Town website, along with all of the application materials.

Chairman Blackaby called the meeting to order at 7:00 pm.

Ms. Binns read the legal notice as published in the Hartford Courant on January 20th and 27th and on the town website into the record with this being a continuation of the public hearing.

Public Hearing: 2022-ZBA4 Lasa Extract, LLC, 426 South Grand Street, Suffield, to appeal the Zoning Enforcement Officer's decision in a letter dated November 14, 2022, that a cannabis micro-cultivator is not a valid legally nonconforming use. Sections XI.C (315-99) and XIII.B.1. apply.

Ms. Hastings made a motion to reopen the public hearing. The motion was seconded by Mr. Schwemmer and approved unanimously 4-0-0. In the absence of Ms. Pacewicz, Chairman Blackaby queried all parties and they agreed to the appointment of Mr. Chase as a substitution as he had also been present for the January 31st hearing. Mr. Blackaby appointed as voting members, himself, Ms. Hastings, Ms. Tartsinis, Mr. Schwemmer and Mr. Chase. Attorney Donnelly noted that he had sent out to the Commission members and the attorneys copies of two documents as requested at the last hearing. One was entitled "Connecticut Department of Consumer Protection Hemp Manufacturing in Connecticut Frequently Asked Questions" which was entered as Exhibit 9 and the other entitled "Substitute Senate Bill No. 893 Public Act No. 19-3 An Act Concerning a Pilot Program for Hemp Production" that was entered as Exhibit 10.

Attorney Brian Smith of Robinson & Cole read his letter of February 28th into the record in response to the information on Public Act 19-3 giving contextual comments on the documents (Exhibits 9 & 10). This letter was given to the members and entered as Exhibit 11.

Attorney Carl Landolina representing ZEO Jim Taylor noted that the State had given towns the opportunity to opt out of allowing cannabis establishments and Suffield had chosen not to opt out, instead carefully deliberating and revising their regulations to allow cannabis establishments but restricting them to the industrial area zones.

Commissioners Blackaby and Hastings raised questions about the difference between hemp and marijuana and the delta -9 tetrahydrocannabinol (THC) content.

Attorney Landolina noted that the difference between allowing the hemp manufacturing as a continuation of a preexisting non-conforming use and the cannabis at the 426 South Grand Street location is that there are now Suffield regulations for cannabis. There were not those regulations for the hemp operation, and a special permit is also required for cannabis.

Commissioner Tartsinis asked what the difference would be for Lasa Extract to apply for the State license for cannabis and the license that he has already for hemp. Mr. Sotil said that he would need to use union workers, which he had already agreed to. He also noted that there would also be no retail sales from the South Grand Street facility.

Chairman Blackaby then opened the hearing to the public.

There were no comments from the public for or against the application.

Ms. Hastings then moved to close the public hearing. The motion was seconded by Mr. Chase and approved unanimously 5-0-0.

Mr. Schwemmer then moved to enter deliberations. The motion was seconded by Mr. Chase and approved unanimously 5-0-0.

Mr. Schwemmer noted that there is a difference at the federal and state level in the regulations for hemp and for cannabis and that, he felt that the Town Zoning Enforcement Officer had made the correct decision in not allowing the cannabis manufacturing in the non-conforming zone.

Mr. Chase stated that because hemp is not addressed in the Town zoning regulations and cannabis is, requiring a special use permit and is limited to the industrial zones the decision rightly belongs to the Planning and Zoning Commission.

Ms. Hastings also noted that this was a use that required a special permit and the Zoning Board of Appeals should not be overturning the ruling.

Ms. Tartsinis said that this would be an expansion of a non-conforming preexisting use, which is not allowed.

Mr. Blackaby spoke of the increase in potency but this was a change in the production of the same chemical.

Mr. Schwemmer moved to overturn the decision of the Zoning Enforcement Officer that a cannabis micro-cultivator is not a valid legally nonconforming use as stated in his letter dated November 14, 2022 addressed to Brian R. Smith, Esq. counsel for Lasa Extract, LLC.

The motion was seconded by Mr. Chase and denied by a 1-4-0 vote.

Mr. Schwemmer voted no, stating there is a clear difference legally between hemp and marijuana and the Suffield law should be followed.

Mr. Chase voted no, stating that this would be taking away the authority of the Suffield Planning and Zoning Commission.

Ms. Tartsinis voted no, stating this would be an expansion of a non-conforming use and a special permit is required.

Ms. Hastings voted no, due to the different regulations that have been set up by the Town in regards to marijuana.

Mr. Blackaby voted yes because of the close relationship to the hemp and marijuana production.

Chairman Blackaby noted that the application was denied and there is a 15 day appeal period starting after the legal notice is published in the paper.

Ms. Hastings moved approval of the minutes of the January 31, 2023 meeting. The motion was seconded by Mr. Chase, with all voting in favor 5-0-0

With nothing further to come before the Commission Mr. Schwemmer moved to adjourn the meeting. The motion was seconded by Mr. Chase and with a unanimous vote the ZBA meeting was adjourned at 8:10 p.m.

Respectfully submitted, Susan Hastings, Secretary
Recording Secretary, Ellie Binns

These minutes are a draft subject to approval at the next ZBA meeting.