



DOMINICK PANGALLO
MAYOR

CITY OF SALEM, MASSACHUSETTS

BOARD OF APPEALS

98 WASHINGTON STREET □ SALEM, MASSACHUSETTS 01970
TEL: 978-619-5685

February 5, 2024

Decision

City of Salem Board of Appeals

The petition of BOSTON BUD RUNNERS LLC at 45 JEFFERSON AVENUE (Map 25, Lot 653) (I Zoning District) for a Special Permit per Section *3.1.4 Table of Principal and Accessory Use Regulations, Section 9.4.2 Special Permit Criteria* to operate a marijuana delivery business. In addition, a Variance from *5.1.5 Off-street parking- Design* of the Salem Zoning Ordinance proposes aisle width of twenty (20) feet where twenty-four (24) feet is required.

A public hearing on the above petition was opened on November 15, 2023 and was continued to January 17, 2024 and was closed on January 17, 2024.

On November 15, 2023, the following members of the Salem Board of Appeals were present: Carly McClain, Peter A. Copelas (Chair), Paul Viccica, Hannah Osthoff and Nina Vyedin.

On January 17, 2024, the following members of the Salem Board of Appeals were present: Carly McClain, Paul Viccica, Hannah Osthoff and Nina Vyedin (Chair).

Statements of Fact:

The petition is date stamped October 25th, 2023. The petitioner requests to operate a marijuana delivery business.

1. 45 Jefferson Avenue is owned by ZXE, LLC.
2. The petitioner was Boston Bud Runners LLC.
3. The representative was Attorney Bill Quinn.
4. 45 Jefferson Avenue is located in the I Zoning District (Map 25, Lot 653).
5. On November 15, 2023, Attorney Bill Quinn explained the requested relief to the board.
6. The applicant is seeking a recognized permissible use in the city.
7. Attorney Quinn referenced an email from City Solicitor, Beth Rennard, that the City was waiting to engage in a host agreement while the state updated their regulations on the operating agreements. However, if approved, the Applicant will work with the City to follow all the new regulations with their intended agreement with Salem.

8. The business model of this operation will be to take marijuana or marijuana products and to store them at this facility and make deliveries by van or SUV to residents of the city.
9. There will be no packaging or refining of the marijuana product at the site. There is no retail function planned for this site. It will be a warehouse that stores marijuana in a secured portion of the premises.
10. Salem Fire and Salem Police have seen and approved the security, operational and emergency plans for this proposed site.
11. The premises will have all the measures that the state or the city require for security- fire prevention, burglar alarms, everything you can need for any marijuana-related facility.
12. Attorney Quinn reviewed the proposed parking plan for the site.
13. The Applicant is proposing to have one or two employees on the property at a time. The Property has over 1000 sq.ft of space for parking which is shared with other occupants.
14. There will be no provided parking for customers since this is not a retail site.
15. Attorney Quinn stated that there are two very large garage doors on the inside of this building which the Applicant will utilize. The vans will pull in, the doors will be shut, the place is secure and the transfer of product in and out of the vault. At night, the van/SUV will be parked in the garage.
16. Attorney Quinn reviewed the requested relief from the parking requirements. The Applicant is not seeking a reduction in spaces, they are seeking a reduction in the width of the aisle between the neighboring building.
17. Chair Copelas stated that based on the current parking plan, the Applicant is creating their own need for a variance. Chair Copelas stated the layout is what is causing the smaller aisle width. The requirement is 24 feet and if the Applicant were to change the parking layout, they would not need a variance from the parking requirements.
18. Paul Viccica stated that these are not legal spots and he felt that the board should not help create illegal parking spots by issuing a variance.
19. Attorney Quinn requested a continuance to the January 17, 2024 meeting to work on the Applicant's parking plan.
20. Paul Viccica made a motion to approve the request to continue.
21. On January 17, 2024, Attorney Quinn updated the board to the application.
22. Attorney Quinn reviewed the details of the petition.
23. Attorney Quinn stated that they had spoken with the landlord and the Applicant revised their parking plan. With the revision of the parking plan, the Applicant withdrew their request for a variance.
24. Paul Viccica asked if other businesses at the site require parking.
25. Attorney Quinn stated that he was not sure if other businesses required parking at the site. He stated that it is relatively quiet at the back portion of the site. However, they have the required 3 parking spaces as well as the additional one to bring the total to 4 parking spaces if the business needs another employee at the site. There is adequate parking at the site. This is the reason for the withdrawal of the variance.

26. Hannah Osthoff requested that Attorney Quinn review the statement of grounds for the petition. Attorney Quinn reviewed the statement of grounds for the special permit.
27. Paul Viccica made a motion to approve the petition.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearings, and after thorough review of the petition, including the application narrative and plans, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

Special Permit Findings for Marijuana Establishment

1. A Security Plan has been submitted for review by the City of Salem Police Department.
2. Operations and Management and Emergency Response Plans have or will be submitted to the Building Inspector, the Fire Department and the City Department of Community Development and Planning as required.
3. Whereas the establishment will be in a building with other uses, the Petitioner's establishment will be separated by full walls from the other users.
4. To the best of Petitioner's knowledge, the establishment will not be located within the prohibited distances from any pre-existing public or private school providing education from kindergarten through grade 12, any house of worship or funeral home, or any institution of higher learning.
5. If there are any churches, libraries, institutions of higher education, licensed daycares, nursery schools or playgrounds within 500 feet of the proposed location, proof will be submitted of written notice of the application and hearing date have been provided to allow them to comment at the Board of Appeals.
6. The establishment will meet the meet the minimum standards imposed on marijuana establishments for storage under CCC Regulations.
7. Because there will be no manufacturing, cultivation or production of marijuana products on site, no odors which are noxious, or public nuisance shall be caused by the establishment's use as a warehouse for distribution of products to consumers.\
8. The establishment shall be managed during its hours of operation by the licensee or his assign on the premises, who has provided emergency contact information to the City of Salem Police Department.

9. All waste disposal shall at a minimum meet the requirements on registered marijuana dispensaries.
10. To the best of Petitioner's knowledge, the establishment will not be located within the prohibited distances from any pre-existing public or private school providing education from kindergarten through grade 12, any house of worship or funeral home, or any institution of higher learning.
11. If there are any churches, libraries, institutions of higher education, licensed daycares, nursery schools or playgrounds within 500 feet of the proposed location, proof will be submitted of written notice of the application and hearing date have been provided to allow them to comment at the Board of Appeals.
12. The establishment will meet the minimum standards imposed on marijuana establishments for storage under CCC Regulations.
13. Because there will be no manufacturing, cultivation or production of marijuana products on site, no odors which are noxious, or public nuisance shall be caused by the establishment's use as a warehouse for distribution of products to consumers.
14. The establishment shall be managed during its hours of operation by the licensee or his assign on the premises, who has provided emergency contact information to the City of Salem Police Department.
15. All waste disposal shall at a minimum meet the requirements on registered marijuana dispensaries.

Special Permit Findings:

The Board finds that the adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Ordinance, the determination includes consideration of each of the following:

1. Social, economic, or community needs are served by this proposal. Improvements will be inside the structure, and the use as a marijuana establishment is allowed by Special Permit and is consistent with the public policy and economic needs of the community.
2. Traffic flow and safety, including parking and loading: There is legally adequate off-street provided for establishment employees, and because no direct sale to

customers will occur at the premises, there will be no significant increase in traffic in and out of the property.

3. Adequate utilities and other public services already service the structure. All necessary municipal utilities already serve the premises.
4. Impacts on the natural environment, including drainage: There will be no significant impact upon the natural environment, and no increase in surface water drainage.
5. Neighborhood character: the proposed work is only on the interior of the structure, there will be no material impact upon the neighborhood's character.
6. Potential fiscal impact, including impact on City tax base and employment: The construction work and employment of employees to operate this facility will add employment opportunities in Salem, and will increase the assessed value of the premises, adding additional real estate tax revenues to the City of Salem.

On the basis of the above statements of fact and findings, **the Salem Board of Appeals voted four (4) in favor (Nina Vyedin (Chair), Paul Viccica, Carly McClain, and Hannah Ostoff) and none (0) opposed** to grant a Special Permit per Section *3.1.4 Table of Principal and Accessory Use Regulations, Section 9.4.2 Special Permit Criteria* to operate a marijuana delivery business.

Standard Conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the building commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. A Certificate of Occupancy is to be obtained.
6. A Certificate of Inspection is to be obtained.
7. Petitioner shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to visible from the street.

8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. All construction shall be done per the plans and dimensions, submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

Nina Vyedin, Chair
Board of Appeals

A COPY OF THIS DECISION HAS BEEN FILED WITH THE PLANNING BOARD AND THE
CITY CLERK.

Appeal from this decision, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A, and shall be filed within 20 days of filing of this decision in the office of the City Clerk. Pursuant to the Massachusetts General Laws Chapter 40A, Section 11, the Variance or Special Permit granted herein shall not take effect until a copy of the decision bearing the certificate of the City Clerk has been filed with the Essex South Registry of Deeds.

