



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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**August 4, 2021**

## **Decision**

### **City of Salem Board of Appeals**

**Petition of I.N.S.A., INC. for a special permit per Section 3.1.2 *Special Permit: Zoning Board of Appeals* of the Salem Zoning Ordinance to expand an existing licensed retail marijuana establishment at 462 HIGHLAND AVENUE (Map 3, Lot 2) (B2 and ECOD Zoning Districts).**

A public hearing on the above Petition was opened on July 21, 2021 pursuant to M.G.L Ch. 40A, § 11 with the following Salem Board of Appeals members present: Mike Duffy (Chair), Peter Copelas, Paul Viccica, Rosa Ordaz, Carly McClain, and Steven Smalley (Alternate).

The petitioner seeks a special permit per Section 3.1.2 *Special Permit: Zoning Board of Appeals* of the Salem Zoning Ordinance to expand an existing licensed retail marijuana establishment at 462 Highland Avenue.

#### **Statements of Fact:**

1. In the petition date-stamped June 18, 2021, the petitioner requested a special permit per Section 3.0 of the Salem Zoning Ordinance to “expand a retail marijuana facility” at 462 Highland Avenue.
2. 462 Highland Avenue is owned by Blue Park Management, LLC.
3. 462 Highland Avenue is a located in the Business Highway (B2) and Entrance Corridor Overlay (ECOD) zoning districts.
4. I.N.S.A., Inc. is an existing licensed marijuana business.
5. On December 3, 2018, the petitioner was granted a special permit by the Salem Zoning Board of Appeals to operate a licensed retail marijuana establishment at 462 Highland Avenue.
6. The proposal is to expand the existing structure at the rear of the premises.
7. The plans and elevations submitted to the Board (dated 05/26/2021) show a 12’ 2 ¼” by 66’ 8” proposed expansion off the southern side of the existing structure. The proposal includes an expanded secured loading area adjacent to the eastern side of the existing structure.

8. The property is not located within five hundred (500) feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, or within five hundred (500) feet of houses of worship and funeral homes, or within one thousand (1,000) feet of institutions of higher education. The property abuts Camp Lion, a site with community facilities including facilities for young people. There is a 15-foot-high rock ledge between the site and Camp Lion.
9. The requested relief, if granted, would allow the petitioner to expand an existing licensed retail marijuana establishment.
10. Due to the ongoing COVID-19 pandemic and related precautions and An Act Extending Certain COVID-19 Measures Adopted During the State of Emergency signed into law by Governor Baker on June 16, 2021, the July 21, 2021, meeting of the Board of Appeals was held remotely, via the online platform Zoom.
11. At the July 21, 2021 public hearing, the petitioner was represented by attorney John R. Kielty (offices at 40 Lowell Street, Peabody, MA). Mr. Kielty presented the proposal, stating that the proposed extension would have space for a training room, conference facility, and secure spaces to store product. Mr. Kielty stated the proposal includes replicating the same security measures at the loading area in a slightly different location. The loading area will still be surrounded by a fence and gates to create a space where trucks can load and unload securely.
12. At the July 21, 2021 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
13. At the July 21, 2021 public hearing the Board asked some questions to the attorney, Mr. Kielty. The Board asked whether the petitioner has discussed the proposal with the Salem Police Department for their review. Steven Reilly, representing I.N.S.A., Inc. responded that he had reviewed the proposal with the Police Department. Mr. Reilly relayed two points of discussion with the police department: First, the extension would include a series of gates at the rear of the structure meant to keep people from passing between the rear of the structure and the nearby ledge. Second, construction would be phased so the wall at the rear of the structure would not be breached until the extension is complete and secured.

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, and the Petitioner's presentation and public testimony, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

**General Special Permit findings:**

1. The City of Salem's citizens have voted to approve marijuana dispensaries, and social, economic and community needs are served by this proposal.
2. Traffic flow and safety, including parking and loading – requirements have been met. The existing security measures at the loading dock will be retained.

3. Utilities and other public services are adequate, as the property has operated as a business and will continue to operate as a business requiring the same kind of utilities.
4. There will be no negative impacts to the natural environment, including drainage.
5. The project has a reasonably low impact on the surrounding neighborhood – there are few residences near the location.
6. The potential fiscal impact, including impact on City tax base and employment, is positive.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted **five (5) in favor (Paul Viccica, Rosa Ordaz, Carly McClain, Mike Duffy (Chair), and Peter Copelas) and none (0) opposed** to approve a special permit per Section 3.1.2 *Special Permit: Zoning Board of Appeals* of the Salem Zoning Ordinance to expand an existing licensed retail marijuana establishment at 462 Highland Avenue, subject to the following **terms, conditions, and safeguards:**

**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. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
7. All construction shall be done per the plans and dimensions, submitted to and approved by this Board, as amended. No change, extension, material corrections, additions, substitutions, alterations, and/or modification to an approval by this Board shall be permitted without the approval of this Board, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

**Special Conditions:**

1. Petitioner is to obtain a letter from the Salem Police Department confirming the department received and reviewed an updated safety and security plan.

2. All conditions from the December 3, 2018 Zoning Board of Appeals decision are incorporated herein.

  
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Mike Duffy, 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.