**Minutes**

**Village Planning Board**

**February 26, 2024**

A meeting of the Village of Horseheads Planning Board was held on the above date at 4:00 p.m. in Horseheads Village Hall, 202 S. Main Street, Horseheads, NY.

Present were:

|  |  |
| --- | --- |
| **Planning Board and Staff** | |
| Chairperson Mike Stenpeck  Dave Helsing  Doug Baker  Bob Young  Tom Rupp  Don Murphy, Alt.  Marc Terpolilli, Alt. | Village Manager Nathan Nagle  Village Atty. John Groff (via Zoom)  Elliott Blauvelt, ZBA Member  Rachel Baer, Manager’s Assistant |
| **Others:** | |
| Kevin McFall  Dale Cole |  |

Motion by Dave Helsing, seconded by Tom Rupp, to approve the minutes of the Planning Board Meeting of January 22, 2024.

Roll Call Vote:

Bob Young Aye

Dave Helsing Aye

Doug Baker Aye

Tom Rupp Aye

Chairman Stenpeck Aye

**950 Chemung Street., Special Use Permit, Cannabis Dispensary – Continued Review**

Kevn McFall, applicant, came forward: I wanted to point out that my restaurant business Mooney’s is not affiliated with this application at all. Also, while I am currently pursuing a state license to operate a cannabis dispensary at this location, I am also considering another restaurant too. I have an attorney looking into the cannabis license.

Chairman Stenpeck: This matter was tabled from our last meeting waiting for proof from the applicant of economic ability to complete the project, which we have since received from M&T Bank. Chairman Stenpeck added that if this permit is granted, it stays with the property not the owner.

Bob Young stated that we have received notification from another individual that they will be applying for a cannabis license for this same location, not the owner. It’s up to Mr. McFall who operates this business. It has nothing to do with the Village.

Atty. Groff asked if the Village received proof of economic ability to complete the project. Chairman Stenpeck stated that yes the Village received a letter from M&T Bank confirming this.

The following resolution was offered to the Planning Board:

WHEREAS, Kevin McFall has applied for a special use permit to construct, operate and maintain an adult use retail cannabis dispensary licensed by NYS Office of Cannabis Management at 950 Chemung St., Horseheads, NY and

WHEREAS, Kevin McFall is the owner of said premises, and

WHEREAS, the site is located in a C3 Highway Commercial District and the Cannabis Overlay District which allows adult use retail cannabis dispensaries as a Special Use, which are governed by Village Code Chapter 245-Zoning, Article XIX, and

WHEREAS, this Planning Board has received and reviewed materials from the applicant regarding the proposed use, and

WHEREAS, this Board has been requested to accept such materials as an application for a special use and final site plan approval, waiving application for preliminary site plan approval, and

WHEREAS, this Board notes that the site in question is a fully developed and improved parcel of real property, while Article XIX is written from the perspective that parcels subject to special use applications and site plan approval are generally undeveloped, consequently certain criteria for this Board’s consideration may be inapplicable or pre-existing, etc.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The application is accepted as submitted for final site plan review, waiving preliminary site plan review and approval.
2. Regarding §245-120A: the application was accompanied by a certified and economic analysis of the project, proposed construction costs do exceed $100,000 and the applicant has provided evidence of financial ability to successfully complete the project, the area map shows the entire holding of Kevin McFall, and grades do not exceed 3%.
3. With respect to the elements of a preliminary site plan, noted in Section 245 -120A (e) this Board finds that the collective materials submitted by the applicant comprise such plan and is compliant with Village regulation with the exception of the following notes and observations:
4. Address of the applicant is missing, and is waived.
5. There are no existing water courses effecting this site.
6. Approx. height of the existing building is approximately 20 ft., one story.
7. There are no proposed site improvements. The existing site improvements are shown in the materials, there will be no material changes to same.
8. The site contains existing adequate parking, loading areas and access for ingress and egress.
9. The site is improved with existing sewer and water facilities, there will be no changes to same.
10. There will be no outdoor signs and/or outdoor advertising of the applicant’s name or business enterprise on the entire site.
11. There will be no changes to existing landscaping or vegetation.
12. Contours are waived as the site is already developed and is essentially flat.
13. There is no need for provision of schools or other community facilities as the site is a pre-existing fully developed commercial property .
14. The Planning Board has considered the above and the following considerations in its review of the final site plan and makes the following findings:
15. Adequacy and arrangement of vehicular traffic access and circulation – satisfactory
16. Adequacy and arrangement of pedestrian traffic access and circulation - minimal and satisfactory
17. Location, arrangement, appearance and sufficiency of off street parking and loading – satisfactory
18. Location, arrangement, size and design of buildings, lighting and signs – already developed, no change, satisfactory
19. Relationship of the various uses to one another and their scale – satisfactory
20. Adequacy, type and arrangement of trees, shrubs and landscaping – existing, no change, satisfactory.
21. Adequacy of storm water and sanitary waste disposal – no change to existing, satisfactory
22. Adequacy of structures, roads and landscaping in areas susceptible to flooding, ponding or erosion – no change to preexisting conditions, satisfactory
23. Any other matter which may effect the health, safety, and welfare of the community – satisfactory.
24. On the basis of the foregoing and this Board’s review, this Board finds that the site is located in a C3 Commercial Zone and in the Cannabis Overlay District, such zone and district permits adult use cannabis retail dispensaries as a special use. The proposed operation is subject to licensure by the Office of Cannabis Management.

On the basis of the above, this Board recommends to the Village Board of Trustees *approval* of the application for a Special Use Permit at 950 Chemung Street, subject to the following conditions:

1. Applicant’s receipt and continuous maintenance of a valid license from OCM for adult use cannabis retail dispensary for consumption off-premises *within one year or approval is void*.
2. There shall be no consumption of cannabis on the premises.
3. Signage shall be subject to and compliant with Village Code and Office of Cannabis regulations.
4. A cannabis microbusiness, which includes an adult use cannabis retail dispensary, is prohibited.

Discussion:

Mr. McFall asked about no signs?

Village Manager Nagle stated that he can has to follow rules of OCM regarding signage, and the Village’s own Cannabis Overlay Zone laws.

Village Manager Nagle asked what happens if the state takes too long in granting the license.

Atty. Groff stated that if he doesn’t get the license in a year, then the Special Use Permit would expire, and he could then reapply.

Roll Call Vote:

Bob Young Aye

Dave Helsing Aye

Doug Baker Aye

Tom Rupp Aye

Chairman Stenpeck Aye

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Other Items:

Chairman Stenpeck stated that the missing payment to Planning Board members for the October 2023 meeting will be added to our annual payment in December 2024.

Chairman Stenpeck noted that the recently approved handicapped ramp on Brooks Street is up, and it looks very good.

Next Meeting: March 25, 2024, 4pm. As there was nothing further to come before the Planning Board, the meeting was adjourned at 4:30 p.m.

/rmb