



**TOWN OF BRANDON
DEVELOPMENT REVIEW BOARD
APPLICATION FOR CONDITIONAL USE
FINDINGS AND DECISION**

In Re: Applicant: FRW, Inc (DBA Grassroots Vermont)

Landowner: C. Mitchell Properties, LLC

Permit Application No. 5984

Introduction and Procedural History

This proceeding involves review of an application for conditional use submitted by applicants: FRW, Inc (DBA Grassroots Vermont) and landowner: C. Mitchell Properties, LLC under the Town of Brandon Zoning Bylaw.

The application was received by the Town of Brandon on October 30, 2018. A copy of the application is available at the Brandon Town Office, 49 Center St.

On November 21, 2018, a notice of public hearing was sent for publication to the "The Reporter".

On November 11, 2018, a copy of the notice of the public hearing was mailed to the applicant and landowner by certified mail and to the adjoining property owners by regular mail. List is included in the file, located in the Brandon Town Office, 49 Center St., Brandon.

The application was considered by the Development Review Board at a public hearing which was opened and closed December 6, 2018.

The Development Review Board reviewed the application under the Town of Brandon Zoning Bylaw, as approved May 7, 2012.

Present at the hearing were the following members of the Development Review Board: Samantha Stone, Amber Lovely-Lee, John Peterson and Tom Bohler.

Jeff Biasuzzi, Zoning Administrator, Justin Severance, Megan Bradley, Alex Ford, Chris Walsh, Andrew Quenneville, Beth Quenneville were sworn in. Also present for the hearing was Hillary Knapp, Secretary.

The following people requested interested party status: Andrew and Beth Quenneville 48 Lovers Lane, Justin Severance and Megan Bradley 114 Lovers Lane, these requests were granted.

FINDINGS

Based on the application, testimony, exhibits, and other evidence the Development Review Board makes the following findings:

The applicant seeks amendments to the conditional use permit required by the original DRB permit (5533) granted March 6th 2103 and the Environment Court Decision (32-3-13 Vtec) of July 15, 2013.

The parcel is in the Rural Development District.

During the hearing the two abutting property owners in attendance described situations in which customers of Grassroots VT would end up in their driveways and properties due to the lack of directional signage for the facility. They also described customers of Grassroots VT, letting their dogs run lose or walking their dogs to use the bathroom on the abutting properties.

The applicants are requesting that amendments be made to alter certain conditions as follows:

- Applicant would like to amend condition 1 by removing it in its entirety.
- Applicant would like to amend condition 2 by adding the following sentence to the end of the existing language "The terms of this condition have been fully complied with as of the date of this application for permit amendment."
- Applicant would like to amend paragraph 5(b) by eliminating it. The applicant intends to install a new HVAC system and the fans will no longer be necessary.
- Applicant would like to amend condition 6 by eliminating reference to "charcoal filters" because applicant's new HVAC system will be more effective in mitigating odors in air pumped outside the building.
- Applicant would like to amend condition 10(b) by eliminating it from the permit. Upon applicant's best information, Nichols no longer resides in the vicinity and Smith, if still residing there, does not abut applicants premises and would not be affected by occurrences on the premises.

DECISION AND CONDITIONS

Based upon these findings, the Development Review Board voted 4-0 to approve the conditional use permit #5984 to amend the original Conditional Use permit and Environmental Courts decision as follows:

1. The hours of operation of the Medical Marijuana Dispensary shall be limited as follows: **Open on Saturday's and Sunday's for five hours each day.** FWR shall not schedule any appointments with customers after 7:00pm Monday through Friday. There shall be two one half hour periods each day while school buses are running on Lover's Lane when FWR shall not schedule appointments with customers, one in the morning and one in the afternoon. It shall be determined as nearly as possible what time the school bus passes 84 Lovers Lane and each half hour period shall commence fifteen minutes before that time and end fifteen minutes are that time.

2. It is contemplated by FWR that there shall be an unlocked waiting room adjacent to the locked patient sales room. FWR shall use its best efforts to construct such unlocked waiting room in such a manner that representatives of FWR can monitor all activity in the waiting room while in the locked patient sales room. **The term of this condition have been fully complied with as of the date of this application for permit amendment.**
3. The DRB approves the removal of paragraph 5b contingent on the HVAC system being properly installed through the entire facility.
4. DRB approves the removal of the charcoal filters contingent on the HVAC system being properly installed throughout the entire facility.
5. FWR will provide the current and future abutting property owners with a good phone number where a representative of FWR can be reached for the purposes of reporting non-emergency activity at the premises. In all cases, a representative of FWR shall respond to any such calls within twenty-four hours.
6. Fencing needs to be extended around the entire property and needs to be at least 3 and a half feet tall with the exception of the street frontage.
7. Appropriate clear directional signage for vehicle entrance and exit of the facility must be installed.


The following conditions from both the Environmental Court decision (32-3-13 Vtec) are still in effect:

1. FWR shall cause its alarm triggered by its inside motion detectors to sound with the town of Brandon Police Department if said police department accepts this condition. If it does not, then FWR shall cause the aforesaid alarm to sound with the Vermont State Police in Middlebury, Vt if the State Police accepts this condition.
2. At no time will there be any restrictions whatsoever regarding access to the premises by the appropriate fire, police and ambulance service.
3. 5(a) FWR shall comply with applicable state of Vermont Act 250 noise standards as those standards are measured outside of the Nichols residence and the Smith residence.
4. FWR will install motion sensitive light with two flood lights to illuminate is parking area. If FWR is unable to obtain permission to do this by administrative amendment to the existing Act 250 permit on the premises then this condition shall be void.
5. FWR shall construct a privacy fence on the premises at or near the mutual property line of the Nichols. The fence shall be constructed of wood and shall be approximately five feet eleven inches high and approximately on hundred and fifty feet long. The location shall be further described as near the est and north side of the Nichols property but actually physically on the premises. Prior to construction, FWR shall consult with Nichols regarding the style, materials and location of the fence.
6. The parties acknowledge that the lease between FWR and Chuck Mitchell Properties, LLC requires requires Mitchell to remove its personal property from the premises on or before September 21, 2013. FWR shall use its best efforts to strictly enforce this lease provision. The parties also acknowledge that Chuck Mitchell, as representative of Chuck Mitchell Properties, LLC, has the limited right to access the property as described hereinafter. Chuck Mitchell has the right to access the premises with twenty four hours notice to FWR for the purposes of showing, selling or removing its personal property, showing the property to prospective buyers thereof, and performing reasonable inspections of the property pursuant to its rights as landlords.
7. FWR shall be available at all times (twenty four hours a day and seven days a week) to respond to any emergency whatsoever relate to the premises.

The following conditions from the original DRB permit (#5533) are in effect:

1. A Project Review sheet from the State of Vermont Permit Specialists showing permits needed is required. It is noted this documentation has been received (Exhibit C).
2. Any change in the intensity of the use of the property must come back to the Development Review Board
3. The following conditions from the Conditional Use Permit #4962 dated April 8, 2008 remain in effect:
 1. Lighting shall be downward and not exceed the lot line.
 2. The operation shall meet all local and state regulations and standards for filtered and recirculated air.
 3. Flammable materials will be stored in a safe and regulated manner.
 4. Proper parking has to be established for up to ten employees and two customers.

Dated at Brandon, Vermont, this 16 day of January 2019


Samantha Stone, Chair

NOTICE: This decision may be appealed to Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.