

This Space is For Registry of Deeds Only:

TOWN CLERK, ROCKLAND  
DEC 29 '21 AM 10:51

**ROCKLAND ZONING BOARD OF APPEALS**  
**242 UNION STREET**  
**ROCKLAND, MASSACHUSETTS 02370**  
E-mail: [zoning@rockland-ma.gov](mailto:zoning@rockland-ma.gov)

Phone: (781) 871-1874 extension 1195

Town Clerk's Date Stamp:

**FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS**

Decision: Special Permit

Applicant: Health Circle, Inc.

Property Address: 21 Commerce Rd, Rockland, Massachusetts 02370

The Rockland Zoning Board of Appeals has considered the review of the Special Permit issued to Health Circle, Inc. with regards to the property located at: 21 Commerce Rd, Rockland MA 02370, Case # 2019-22 dated April 23, 2020, to review compliance with Condition No. 12 of the original Special Permit with Zoning Board of Appeals as well as to discuss any adverse impacts from the operation of the RMD, including the traffic impacts on neighboring businesses. Based on this review the ZBA will consider modifications to the Special Permit including, if necessary, appointment only conditions. The property is located in the H-1 Industrial Park-Hotel District, Zoning District, located at 21 Commerce Road, and is further identified as Lot 4-26-0 on the Rockland Assessor's Maps.

The Board certifies that it has complied with all statutory requirements relative to notice to abutters and new publication of notice of the public hearing and has filed copies of this decision and all plans referred to herein with the Town Clerk, Planning Board, and the Building Department pursuant to Mass. Gen. L. c. 40A, Section 11.

Advertised: November 19th, 2021, and November 26th, 2021, in the Patriot Ledger.

The Board lastly has taken into consideration testimony of the applicant, the application materials, plans and revised plans, and communications from various Town boards, abutters, and with interested parties.

A Public Hearing was held via remote at 8:15 P.M. on December 7th, 2021.

**ATTENDANCE:**

**Board Members: Robert Rosa, Gregory Tansey, Timothy Haynes, Robert Baker, Jr., Robert Baker, Sr., Stephen Galley, (alt)**

**Also present: Land Use Counsel Attorney Robert W. Galvin as well as Building Commissioner/Zoning Enforcement Officer Thomas Ruble.**

**(All Board members were participating remotely)**

**MEMBERS VOTING: Chairman Robert Rosa, Gregory Tansey, Tim Haynes, Robert Baker, Jr., Robert Baker, Sr.**

**DISCUSSION ON December 7th, 2021**

The Chairman of the Zoning Board introduces the members of the board advising to the public that all are participating remotely.

The Chairman asks the members of the ZBA for roll call vote to open the public meeting. The ZBA members take a roll call vote:

Robert Rosa – Yes, Greg Tansey – Yes, Timothy Haynes – Yes, Robert Baker, Jr – Yes, Robert Baker, Sr. – Yes. The vote is unanimous, and the public meeting has been opened.

The Chairman read the advertised notice in the Patriot Ledger with a Public Hearing Date of December 7th, 2021.

Owner of Health Circle, Inc – Michael Westort is present at the hearing for review of the Special Permit Conditions.

The Applicant testified they are trying to accomplish a few items. They have been open for almost a year now. They have not had nor received any complaints from any abutting neighbors. The Rockland Police Department as well as Rockland Fire Department have both signed letters confirming that they have not received any complaints in regard to the Applicant.

The Applicant testified that they would like the ZBA to consider removing Condition No. 11 which requires “appointment only”.

The Applicant testified that there has not been a large number of lines so he would like to see if that is a consideration that the ZBA can review and make.

The Applicant testified that they would like the ZBA to consider removing item #18 which is regarding the “Police Detail” The Applicant testified that they spoke with the Police Chief, and he does not feel a detail is necessary at all there.

The Applicant testified that he would also like the ZBA to consider amending the hours of operation on the Medical Dispensary permit as currently medical closes soon than the Recreational.

The Applicant Testified the last item he would like the ZBA to consider reviewing is their Temporary sign permit.

The Chairman opens discussion to the members of the board:

Tom Ruble – No complaints – everything has been going fine. The only issue he has is the sign. The sign he currently has he feels is considered a “promotional sign”. Tom stated he has not denied it, however he asked the Applicant to review with the ZBA to see if ZBA will allow it – where our Town by-law states you can not have a “promotional sign”

The Chairman asked the Applicant if he has a photo of the sign that he can show to the ZBA.

Greg Tansey asked the Applicant if the banner was a vertical wing shaped sign.

The Applicant testified yes; it is. The first rendition just said – “Recreational Cannabis”, and it didn’t have the business name on it. The most recent version of the sign has the full Health Circle name with recreational cannabis and includes address.

The Chairman asked Tom Ruble if when he looks at the sign if the words “Recreational Cannabis” is what he considers as “promotional”?

Tom Ruble stated yes if you look under the by-law, it states it is not allowed.

The Chairman stated to the Applicant that Tom Ruble has a point.

The Applicant testified that he is not promoting anything, he is not showing on the sign there is a buy one get one free deal – Cannabis is what is sold at the store.

The Chairman stated the Applicant also has a point and that it will have to be discussed further.

The Chairman stated that as far as he has heard there are no issues with the establishment. Building still looks good, parking still looks good, interior still looks good.

Robert Baker, Sr. states that he has no issue with the property, only item is that he has a tendency to agree with the building inspector on the sign.

The Applicant asked the members of the board if it is the word Cannabis that is creating the issue as that is what the establishment does, they are in fact a cannabis company. He understands to not present what they do in a derogatory way and feels he has not by using the word cannabis, opposed to weed, pot, etc....

Tom Ruble stated that his mind is made up and that if the Applicant has something he wants to submit to the board, then submit it to the ZBA.

The Chairman stated to the Applicant – if the name of the business was “Health Circle – Recreational Cannabis” it would lead it a bit easier to be discussed as non-promotional, however where the name of the business is “Health Circle, Inc.” the next line that shows on the sign – Recreational Cannabis is what creates the issue.

Attorney Galvin opines to the Applicant that the feather sign they have placed there does show as promotional – not only from the material but also it is placed there attracting business to the establishment, however, the other item is that the sign itself is better considered as a temporary sign. The Applicant is only allowed 1 temporary sign for up to 60 days in a calendar year and you can only do that with a permit that is issued by Mr. Ruble. Attorney Galvin opines that sign has no right to be there without a permit from Mr. Ruble to begin with and if he feels that the sign is deemed more promotional material then that is his call to make and that his recommendation to the ZBA is that they defer to Mr. Ruble.

Stephen Galley stated that doesn't agree that the word “Cannabis” counts as a promotional term, he is of the opinion that just that word doesn't come across the spirit of the by-law. He feels that not being able to put the word Cannabis on the sign is similar to having no color on a Dunkin Donut Sign.

Attorney Gavin opines that having re-read the by-law he agrees with Mr. Galley. That being said it does not change his opinion that he needed a permit to put it up and a feather sign like that can only be up for 60 days. Static Sign, Pole Sign, Wall Sign are what is permitted.

Greg Tansey stated he has no issue with the sign, and that he does agree with Mr. Galley's interpretation and Attorney Galvin's interpretation.

Robert Baker, Jr. stated that he would respectfully disagree with some of his colleagues on what is promotional and what is not. He feels the notion of “recreational cannabis” on the sign doesn't just advertise the product it advertises a use to it, which allow it to easily be read as “promotional”. With regard to the issue on the hours of operation for the Medical permit – he agrees if there is no legal impediment for the hours been evened off to 9pm then he certainly agrees.

Timothy Haynes stated that he was under the assumption that this was more of a year anniversary to discuss the establishment, traffic impact etc.... and he is just curious if the items discussing and being deciding on can this be discussed and decided upon.

The Chairman explains the ZBA is coming back after the year and reviewing any of the conditions that the Applicant would like the ZBA to change.

Tim just would like to be sure these items are well withing their agenda. The Chairman stated that he believes that it is.

Tim stated his questions were more around traffic in the conditions it was discussed that the Applicant would provide reports and details on average customer times, times customers arrive vs. depart – more analytical details for the board.

The Applicant testified he is happy to answer any questions the ZBA has with the exception of the client count being said on a public meeting as that would allow for listeners to calculate for revenue. He is happy to send the client count to the ZBA. With regard to minutes a client is in the establishment – approx. 7-10 max. With regard to spaces – not utilizing all the spaces, there is never a line out front which is why the Police Department feels they do not need a detail.

The Chairman feels that everything is going well with establishment. There are no lines like you see at other establishments. There is no traffic, there are no negative issues like other establishments are having.

The Chairman also address's the question to see if the ZBA does have the right to discuss other items than No. 12 that was advertised, Attorney Galvin agrees.

The Chairman reviews the Conditions showing on Original Hearing – Medical and Recreational.

With regards to condition No. 21 the hours at 8pm for medical.

Tim Haynes stated to the Applicant that the by-law is the issue – as in the town by-law it states that Medical RMD can not be open later than 8pm.

The Chairman opens it back up to the members of the board if they have any further questions.  
No further questions

The Chairman opens it back up to the members of the public, asking if any of the attendees would like to speak either in favor or opposed to this applicant.

No one spoke in favor or opposed on behalf of the applicant.

The Chairman asked the members of the board for a motion to close the public portion of the meeting.

Robert Baker, Sr. made a motion to close the public portion of the meeting.  
Greg Tansey seconded the motion.

The ZBA members take a roll call vote:  
Robert Rosa – Yes, Greg Tansey – Yes, Timothy Haynes – Yes, Robert Baker, Jr – Yes, Robert Baker, Sr. – Yes. The vote is unanimous, and the public meeting has been closed.

The Chairman reads to the applicant the appeal process and states a decision will be made at tonight's hearing, and that they are welcome to stay and await the result.

## **DELIBERATION:**

Upon a motion duly made Robert Baker, Sr. and seconded by Robert Baker, Jr. in a roll call vote the Board voted unanimously (5-0) to GRANT, via roll call vote, with members, Robert Rosa, Greg Tansey, Tim Haynes, Robert Baker Jr., Robert Baker, Sr. in favor, to the newly conditioned Special Permit, with the new conditions to reflect as shown below.

## **CONDITIONS:**

Conditions from the Hearing Date: March 8, 2016, have been amended to reflect the below:

1. A copy of the Proof of recording of this Decision and Certificate of No Appeal with the Registry of Deeds must be presented to the Building Department prior to applying for an Occupancy Permit for the RMD at 21 Commerce Road.
2. All signage shall comply with the local By-laws and state regulations
3. There shall be NO street parking on Commerce Road and there shall be NO off-site parking.
4. There shall be NO sub-leasing to the tenants at anytime and there shall be NO other business allowed at this location
5. There shall be a six (6) foot high fence erected around the rear of the building to prevent un-authorized access.
6. All security plans shall be approved by the Rockland Police Department prior to commencement of use.
7. The final plans shall be approved by the building commissioner for the consistence with this decision and shall comply with the State Building Codes
8. The Applicant shall provide copies of all state permits and approvals to the ZBA and shall meet the permitting requirements.
9. The Applicant shall forthwith report any suspension, termination of registration to the Zoning Board of Appeals.
10. The Applicant shall comply with the Abandonment and Discontinuance provisions of the Zoning By-law
11. The Applicant shall have the Final Building Evaluation Plans reviewed by the Design Review Committee
12. The Applicant must file an Annual Report to the Zoning Board of Appeals as to the status of permits by January 31, 2017.
13. The Special Permit is issued to Health Circle, Inc. with the location to be 21 Commerce Road. If there is a change in ownership the new owner shall file an application for a public hearing for a new Special Permit.
14. The Applicant shall provide the Town with a Bond to comply with the By-law requirements and shall be given to Land Use Counsel, Robert W. Galvin, of Galvin & Galvin, SP, 10 Enterprise Street, Suite 3, Duxbury, MA 02332-3315 and then if acceptable, the Bond shall be given to the Treasurer's Department and a copy of the said Bond is to be filed with the Rockland Zoning Board of Appeals, 242 Union Street, Rockland MA 02370.
15. In NO event shall this building have recreational marijuana for retail sales.
16. The traffic study is to be reviewed by the Town's Engineer, Patrick Brennan, Amory Engineers, 25 Depot Street, Duxbury, MA 02331, and the Applicant shall be responsible for the payment of consulting fees billed to the Board.
17. The Applicant shall comply with all State and local codes
18. All non-exempt RMD's shall be contained within a building or structure.
19. RMD's shall have a gross floor area of no less than 2,500 square feet or more than 20,000 square feet.

- 20.** RMD's shall not be in buildings that contain any office used by a medical doctor/ doctors, or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
- 21.** Hours of operation of Registered Marijuana Facilities shall be set by the Special Permit Granting Authority, but in no event shall said facilities be open and or operating between the hours of 8:00 P.M. and 8:00 A.M.
- 22.** There shall be NO smoking, burning, or consumption of any product containing marijuana or marijuana-related products on the premises of an RMD
- 23.** RMD's shall not be located on a lot which abuts a Residential Zoning District, a school, daycare center, public playground, the Rail Trail, or athletic fields
- 24.** RMD's shall not be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van, truck, or trailer.
- 25.** Notwithstanding any provision of Article VI, §415-45D of this By-law, external signage for RMD's shall not be illuminated except for a period of 30 minutes before sundown until closing and shall comply with all other requirements regarding signage provided, however, that the Department of Public Health may further specify minimum signage requirements.
  - a.** RMD's may develop a logo to be used in labeling, signage, and other materials. Use of the medical symbols, images of marijuana, related paraphernalia, and colloquial references to cannabis and marijuana are prohibited from the use in this logo.
  - b.** Signs shall include the following language: "Registration card issued by the MA Department of Public Health required. "The required text shall be a minimum of two inches in height.
  - c.** Signs shall only identify the building by its registered name.
  - d.** Signs shall not utilize graphics related to marijuana or paraphernalia on the exterior of the building in which the RMD is located.
- 26.** RMD's shall not display on the exterior of the facility advertisements for marijuana or any brand name.
- 27.** RMD's shall provide the Rockland Police Department, Building Commissioner / Zoning Enforcement Officer the names, phone numbers and e-mail addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the establishment and update that list whenever there is a change in management staff or key holders.
- 28.** RMD's shall provide delivery service to Hardship Patients who are unable to get to the Dispensary.
- 29.** Any concerns or remedies sought by the Fire Chief, Police Chief or the Building Commissioner shall be resolved immediately.
- 30.** The customers shall park in the front of the building and the employees shall park on the left side.
- 31.** The dumpster location shall be shown on the Site Plan prior to the Site Plan review process.
- 32.** There shall be a lock box installed for the Fire Department.
- 33.** A final copy of Site Plans shall be filed with the Building Department and the Zoning Board of Appeals.
- 34.** All deliveries shall be made at the rear of the building.
- 35.** Advertising shall be in accordance with the Zoning By-laws and the DPH regulations.
- 36.** There shall be NO overnight parking at this location.
- 37.** There shall be NO drive-thru window at this location.
- 38.** Any complaints concerning the operation of the business shall be diverted to the Building Commissioner/Zoning Enforcement Officer for enforcement in accordance with M.G.L. Chapter 40A, Section 7. If warranted, the ZBA will advertise and notify the abutters for a public hearing to discuss the revocation of the Special Permit for a RMD at 21 Commerce Road.

Conditions from the Hearing Date: January 7, 2020, have been amended to reflect the below:

## **CONDITIONS**

- 1.** The Applicant shall improve the premises in accordance with the approved Site Plans dated 2/26/20 and the use of the premises shall be in accordance with said plans. The Applicant shall obtain all other local, state and federal permits and approvals required by law prior to the commencement of any use. If any condition of any other permit or approval conflicts with any condition of approval contained herein, the Applicant shall be required to comply with terms and conditions herein, unless waived expressly and in writing by the Zoning Board of Appeals.
- 2.** All Conditions contained in the March 18, 2016, Special Permit except for ones that are altered by this decision shall remain in full force and effect.
- 3.** No street parking on Commerce Road or any adjacent access roads shall be permitted.
- 4.** No parking shall be permitted for this approved use at any adjacent business or vacant lots unless otherwise expressly agreed to between relevant parties of being used to meet the minimum required spots of the zoning by-law.
- 5.** There shall be no drive-thru window or similar service
- 6.** All signage shall adhere to the provisions of the state regulations for RMD's with respect to signage, included that signage shall not utilize graphics related to marijuana or paraphernalia on the exterior of the building and any local sign by-law requirements.
- 7.** The facility will have the appearance of a medical office and there shall not be any signs or posters inside windows that are visible from outside the building.
- 8.** No smoking, burning, or consumption of any product containing marijuana or marijuana related products on or outside of the premises.
- 9.** Health Circle will install odor mitigation controls to meet the requirements of the zoning bylaw and said controls shall be operational prior to the commencement of any business.
- 10.** There shall be no loitering permitted outside of the building and the applicant shall take active measures to prevent such an occurrence.
- 11.** All cannabis and cannabis product deliveries shall be made to rear of the building and using non-descript vehicles staffed by appropriately trained and experienced delivery drivers.
- 12.** Prior to commencement of operations, the Applicant shall install signage visible to vehicles leaving the parking lot at 21 Commerce Road, restricting exiting to left turn only.
- 13.** There shall be no overnight parking at this location except for employee's that are working at the facility after hours, including those who provide security or actively facilitating permitted uses.
- 14.** Health Circle has offered and agrees to enter good faith negotiations with the owner of Commerce Road about contributing toward the reasonable cost of maintaining and plowing Commerce Road.
- 15.** Health Circle shall pay the cost for no parking signage to be installed along Commerce Road and the access roads to One Technology Place, 1040 and 1050 Hingham Street.
- 16.** Onsite security shall be presented during business hours and the applicant shall provide 24/7 contact information for such personnel to abutting property owners, tenants and the Rockland Police Department and Fire Departments.
- 17.** Hours of daily operation shall be limited to the hours of 10:00 A.M. to 8:00 P.M. for medical marijuana patients, and 10:00 A.M. to 9:00 P.M. for adult use customers. There shall be no sale of retail product on Thanksgiving and Christmas, or any other day prohibited by state law and regulations.
- 18.** Health Circle shall continue to employ a police detail and parking lot attendant when deemed necessary by the Rockland Policy Chief to mitigate any additional traffic.



**REASON FOR DECISION/FINDING:**

In the exercise of its discretionary authority the decision to approve the recreational marijuana establishment special permits are based on the fact that, as conditioned, the marijuana establishment is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in MGL c. 40A, § 11, is not located in any prohibited area or within the exclusion zones provided under the Zoning By-law, is in harmony with the intent and purpose of the Zoning Bylaws, the Applicant clearly demonstrated that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all applicable state and local laws and regulations; and, the Applicant has satisfied all of the conditions and requirements of these Zoning Bylaws.

**NOTE:**

- ❖ This decision may be appealed to the District Court, Housing Court, Land Court or Superior Court pursuant to Chapter 40A, Section 17. Said appeal must be filed within twenty (20) days after this decision is filed with the Town Clerk.
- ❖ Chapter 40A, Section 11, states that in part, that no variance or Special Permit shall take effect until the Town Clerk certifies that twenty (20) days have elapsed, and no appeal has been filed.
- ❖ This Board certifies that copies of this decision have been filed with the Planning Board as well as with the Town Clerk.

**FOR THE ZONING BOARD OF APPEALS**



Robert C. Rosa III

Chairman