



IN CITY COUNCIL

Marlborough, Mass., APRIL 23, 2018

ORDERED:

DECISION FOR SPECIAL PERMIT IN CITY COUNCIL

NOTICE OF DECISION GRANT OF SPECIAL PERMIT

Special Permit Application of:
NEH Inc., d/b/a New England Hydroponics
Ethan Homes
7 Catie Dr.
Westborough, MA 01581
Order No. 18-1007199B

Locus:
408 Maple St.
Assessors Map 104, Parcels 2A

DECISION

The City Council of the City of Marlborough hereby GRANTS NEH Inc., d/b/a New England Hydroponics, having a mailing address of 7 Catie Dr., Framingham, MA 01581, for a commercial establishment selling indoor and outdoor gardening supplies, equipment and merchandise, and products incidental thereto at 19 Brigham Street, Unit 6, Marlborough, MA based on the Findings of Facts and Conditions attached hereto as provided in the DECISION and subject to Procedural Findings and Findings of Facts and Conditions.

Decision date: April 23, 2018.

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the 1st day of May, 2018.

This is to certify that twenty (20) days have passed since the filing of the within decision and no appeal has been filed with this office.

Given at Marlborough this 22nd day of May, 2018.

Given under Chapter 40A Section 17 of the General Laws.

A TRUE COPY
ATTEST


City Clerk



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DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 18-1007199B

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to NEH Inc., d/b/a New England Hydroponics (hereinafter "Applicant Tenant"), as provided in this Decision and subject to the following Findings of Facts and Conditions:

FINDINGS OF FACTS

1. The landlord is Ivy Brigham Property, LLC, a limited liability company organized under the laws of Delaware with its principal place of business located c/o Ivy Realty, 102 Chestnut Ridge Road, Suite 204, Montvale, New Jersey 07645. Applicant Tenant is a duly organized and existing Massachusetts corporation with its principal place of business at 855 Worcester Road, Suite 2, Framingham, Massachusetts 01701 and has duly filed its Articles of Incorporation with the City Clerk of the City of Marlborough to operate its business at the subject location.

2. The landlord is the title owner of the property located at 19 Brigham Street (the "Site"). The landlord and Applicant Tenant have executed a lease regarding Unit 6 at the Site, and its use pursuant to the terms of this special permit regarding Unit 6 at the Site. The Site is located within the Industrial zoning district, and Unit 6 consists of 6,000 square feet of gross floor area.

3. The Applicant Tenant seeks permission to utilize Unit 6 at the Site as a commercial establishment for selling indoor and outdoor gardening supplies, equipment and merchandise, and products incidental thereto.

4. The Applicant Tenant, on February 28, 2018, filed with the City Clerk of the City of Marlborough, an Application for a Special Permit under the provisions of § 650-17 and pursuant to the procedures specified in § 650-59 of the Marlborough Zoning Ordinance (the "Application").

5. The Site contains an existing commercial building. Unit 6 is shown in that building on plans submitted with the Application, the first said plan entitled "Site Plan," and the second plan being a floor plan entitled "19 Brigham St. Unit # 6" (collectively, the "Plans"). No modifications are proposed to the exterior of the building, no structural modifications are proposed to the interior of the building, and no parking areas will be created or modified.



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6. The Applicant Tenant seeks a special permit allowing for a commercial establishment selling indoor and outdoor gardening supplies, equipment and merchandise, and products incidental thereto. The proposed establishment may be specially permitted within the Industrial zoning district as retail sales and service with less than 75,000 square feet of gross floor area.

7. The Plans have been certified by the Building Commissioner, acting on behalf of the City Planner, as having complied with Rule 7 of the Rules and Regulations promulgated by the City Council for the issuance of a special permit.

8. Pursuant to the Rules and Regulations of the City Council and the provisions of M.G.L. c. 40A, the City Council established a date for public hearing for the Application and the City Clerk caused to be advertised said date in the MetroWest Daily News and sent written notice of said hearing to those abutters entitled to notice under law.

9. The Marlborough City Council pursuant to M.G.L. c. 40A held a public hearing on April 2, 2018, concerning the Application. The hearing was opened and closed at that meeting.

10. The Applicant presented evidence at the public hearing detailing the proposed use and its limited impact upon City services, the neighborhood and traffic.

11. At the public hearing, Ethan Holmes, who will be managing the operation of the business and is the Applicant Tenant, described the proposed business as being a commercial establishment selling indoor and outdoor gardening supplies, equipment and merchandise and products incidental thereto. In response to questions from city councilors, he indicated that the facility would be open to the general public as a retail operation.

12. No member of the public spoke, either in favor or in opposition to the proposal.

13. Following the public hearing, the Urban Affairs Committee held a meeting on April 10, 2018 during which this Application was discussed.



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REASONS FOR APPROVAL OF APPLICATION FOR SPECIAL PERMIT

A. The City Council finds that the Applicant Tenant has complied with all Rules and Regulations promulgated by the Marlborough City Council for an application as they pertain to the requested special permit (the "Special Permit").

B. The use of Unit 6 for a commercial establishment selling indoor and outdoor gardening supplies, equipment and merchandise, and products incidental thereto is an appropriate use of the Unit 6-portion of the Site and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough, subject to appropriate terms and conditions provided for herein. The use sought and its impacts and characteristics are not in conflict with the public health, safety, convenience and welfare, provided the safeguards and limitations imposed herein are met.

C. The City Council, pursuant to its authority under M.G.L. c. 40A, § 9 and Chapter 650 of the Marlborough City Code, **GRANTS** the Applicant Tenant, its successors and assigns, a Special Permit to operate for a commercial establishment selling indoor and outdoor gardening supplies, equipment and merchandise, and products incidental thereto, as per plans filed with the City Council and the City Clerk, **SUBJECT TO THE FOLLOWING CONDITIONS**, which shall be applicable to Applicant Tenant's successors and assigns, and a violation of which shall be a violation of this Special Permit:

CONDITIONS

1. Signage. Any signage installed or erected on the Site shall meet the requirements of the Sign Ordinance of the City of Marlborough, without variance.

2. Parking. No on-street parking shall be permitted on Brigham Street or any other abutting side street or public way.

3. Limits of Use. The proposed use of the premises is for use as a commercial establishment selling indoor and outdoor gardening supplies, equipment and merchandise, and products incidental thereto.

4. No Outdoor Storage or Outdoor Product Display. No outdoor storage or outdoor product display shall be permitted at the Site.



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5. Certificate of Occupancy Required. No use of the premises will be made pursuant to this Special Permit unless and until a Certificate of Occupancy has been obtained from the Building Commissioner regarding the change of use of the premises.

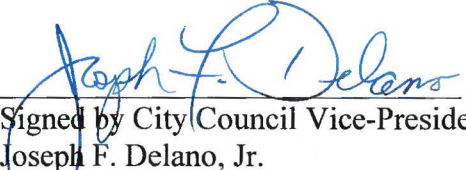
6. No Expansion of Use Area or Change in Area Configuration. Only the area of Unit 6, containing approximately 6,000 sq. ft., which has been specified in the Plans attached hereto, will be used for the proposed use. To the extent that a substantial increase in, or a change in the configuration of, the area used for this use is desired, the Building Commissioner shall determine whether such increase or change constitutes a substantial change of the permitted use, and if so, no such area increase or configuration change shall be permitted unless and until this Special Permit has been modified by the City Council.

7. Recordation. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant Tenant shall, at its expense, record this Special Permit with the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal hearing being filed. The Applicant Tenant shall provide a copy of the recorded Special Permit to the City Clerk, the City Solicitor, and the Building Commissioner.

Yea: 10 – Nay: 0 – Absent: 1

Yea: Delano, Doucette, Dumais, Tunnera, Irish, Landers, Juair, Oram, Ossing & Robey.

Absent: Clancy.


Signed by City Council Vice-President
Joseph F. Delano, Jr.

ADOPTED
In City Council
18-1007199B