

**Town of Sheffield**  
**Planning Board**  
**Wednesday, July 28, 2021 at 7pm**  
**Town Hall, 2<sup>nd</sup> Floor Conference Room**  
**The meeting was recorded.**

**Members Present:**

Ken Smith, Chairman  
George Oleen  
Caitlin M. McNeil  
Sari Hoy  
Robbie Cooper

**Members of the Public:** Sign in sheet attached

Chairman K. Smith called the meeting to order at 7:00pm.

**ANR Requests.**

ANR request for BerkHill 73 Sheffield, LLC for property 73 Main Street was presented by Foresight Land Services. The current lot would be split into 2 lots, referred to as # 3 and #4, each with the required 50' frontage and ½ acre. #3 has 56' of frontage on a little over ½ acre, while #4 has 131' of frontage and ½ acre+. The setback requirements are met in creating the new lot and on the lot where current buildings exist, as well as this later lot meeting the 75% or less lot coverage restriction. Parcel #2 was discussed; it is a land locked parcel and not impacted by this ANR request. **On a motion by G. Oleen, seconded by S. Hoy, and a vote of 5-0, the Board approved the ANR as presented, and signed and returned the Mylar to Foresight Land Services.** The Board later noticed Foresight Land Services had not provided the Board the required number of plans for their files. Foresight's representative had left so this will be resolved outside of the meeting.

**Special Permit hearing for Sun Drops, LLC.**

At 7:08 pm, **on a motion by G. Oleen, seconded by S. Hoy, and a vote of 5-0, the Board opened this public hearing.** Chairman Smith read the Special Permit legal notice, as it appeared in the Berkshire Eagle in 7/8 and 7/14/21 editions. He cited the documents before the Board, including the required 300' abutters list, which went to 19 abutters as required by law. He asked Sun Drops, LLC to present their application for Special Permit for Adult Marijuana Product Manufacturing at 39 Silver Street.

Diego Gutierrez, architect, presented the application and was jointed in doing so by David Hollands and Janine Yu, 2 of the 3 owners of Sun Drops, LLC. They will lease the property for their small scale candy manufacturing operation for the wholesale distribution of consumer packaged goods – no retail, no public on premises. It is a craft cannabis candy business. The owners described the work experience of all three owners and the roles each will play in the business as well as day to day operations.

D. Gutierrez informed the Board the Cannabis Control Commission (CCC) has granted a provisional license to Sun Drops, LLC; upon receipt of approval of the requested Special Permit, they will apply for a permanent license from the CCC. He noted there were no issues of compliance noted by the CCC in Sun Drop, LLC's application for a license.

Description of the product manufacturing process included that there will be no raw cannabis on site as the cannabis is in the form of cannabis oil from a MA supplier, which is infused with flavorings at a particular point of the hard candy making process and added to the candy syrup base. The candy making will take place in a secure interior part of the building. The process involves kettles being heated to 350-500 degrees; overhead is a steam hood, equipped with carbon filters, which will be active when cooking is going on. This is an electric driven process, no open flames. The raw ingredients are boiled, the resulting syrup is deposited into candy molds, which are air cooled in a setting stage. After cooled in ambient air (no cooling tunnels planned), the candies are vacuum sealed and stored in a vault. The product is packaged and labelled. The commercial kitchen is under the jurisdiction of the Board of Health and the cannabis oil comes in jars, described as the size of quart jars.

To conform with CCC testing and quality control, a sample of every batch is sent to a CCC licensed testing facility, which tests for many items including cannabis content and impurities. They receive back the testing results for each batch and these testing result must be put on the product packaging, as well as the normal products contents, such as sugar etc. Batches that do not pass this testing procedure may not be sold.

Potential odor issues were addressed by pointing out that the main smell would be one of sweetness – like sugar – not cannabis and by describing the carbon filtering HVAC system being installed, particularly the carbon filtering system in the steam hood over the cooking kettles. They noted the doors and windows in the facility have been sealed. All the vendors/contractors they have used in reconfiguring the building and installing equipment are cannabis experienced.

The applicants noted the building's location in the middle of the 3 acre site, set back from Silver Street. They are asking for operating hours of 9am – 7pm 5 days a week to cover delivers in addition to production time. They anticipate being there less than 5 days a week to start. The specific impacts noted in 7.5 were addressed and conveyed they would have less impact than the current business on electrical usage, water, sound, dust, and traffic as delivery vans are regular vans, smaller than a UPS vehicle.

In addition to meeting the security and lighting requirements from the CCC, they are removing 2 pole constructed sheds, which will increase security around the facility, while lowering their security costs. The steel gate currently in place will remain and have control access. Fencing was discussed by the applicants; they are not required by the CCC to have fencing but are required that all access doors have security and secured access. Security cameras are required. Looking to install small downcast lighting 20'-30' from the building, which will conform to Dark Sky standards. Security requires motion sensors, infra-red cameras, mikes, and security at all windows. Components of the security system are all tied to a dedicated back-up generator, in case of outages.

When discussing the decision criteria outlined in Section 9.4, the applicants and their represented noted economic impacts are positive and consist of 3-4 PT or FT manufacturing hires, so including them, about 8 people, which later became 3 FT plus the 3 owners at start up with 1 additional employee hired per year. Per their HCA, they will pay a 3% community impact fee. Lower traffic mentioned again as well as no impacts on electrical or other infrastructures. They plan to install a solar system, similar to Big Elm's, but that is down the road and understand they will need a solar special permit.

Applicants discussed the candy production process again, with details of likely hand mixing the syrup containing the cannabis oil and assorted flavorings. Candies will be the size of a Jolly Rancher candy. Maximum production capacity is about 85,000 candies per day; initial production will be about 2,000/day. As they build their distribution, product production will increase. They are focusing on becoming a craft candy company with two main lines – hard candies and gummies. May consider chocolate candies later but need feedback from their distributors as well as customers. Discussed their 10 year business plans.

Signage was reviewed with the applicants stating signage will be at a minimum as only wish to have address and possibly name of company. No visual cues to type of facility are allowed by the CCC. Signage will have down cast lighting.

The board had questioned the applicants during their presentation and had no further questions at this time. Chairman Smith opened the public hearing up to public comments.

Questions/comments from attendees, with answers from applicants:

- Impact on water resources? Less or equal to now as growing no cannabis product.
- Impact on electricity? The electrical system built into the building provides more than they anticipate ever needing. Way-beyond was in their answer.
- What percent are you paying in your HCA with the Town? 3%
- Suggestion to the Board that any reference to "as needed" in the Board's decision be gotten rid of.
- Many comments and an extended discussion by the several neighbors about the lack of security and wanting a way for the applicants to "isolate" the surrounding homes, with children, and neighborhood from the impact of the facility, as well as to keep people cutting across Route 7, crossing people's properties, and entering the site. It was noted the gate in front on Silver Street does not connect to any fence. The vegetation on the property was discussed and the potential need for more.
- Comments in general about marijuana industry in Sheffield; when will it stop and request to halt it.
- Comment on Sheffield becoming a major supplier, if not the major supplier, of cannabis in Berkshire Co. Facilities on RT 7 and RT 7A were referenced. General statement that people live in homes nearby and this needs to be considered.
- Many comments on "isolation", which to the neighbors present meant lines of trees and/or fencing to isolate the proposed business from 4 adjacent properties with family homes.
- Comment cautioning about requiring the usual 8' chain link fence with green slates that would make the property unattractive and call attention to it. Referenced such fences and how they look; recommended not making the property look worse than it does now.

- The purpose of the Zoning By-Laws was read to the Board from the ZBLs and a request to the Board to deny the special permit application.
- Is the use requested is allowed by the ZBL? Yes, by Special Permit from the Planning Board.
- What is the public input process once the Board starts its deliberations? Chairman Smith explained the process once deliberation begins – no public input – and explained the appeal process if a Special Permit is granted.
- Would the applicant under manufacturing, if permitted, be allowed to bake goods? The definition of manufacturing as it applies to marijuana product manufacturing was read and the answer is Yes.
- Request made to limit the applicant to candy manufacturing only and note of no community member speaking in support of the application.

Applications reviewed their security, odor mitigation system, wanting to be discrete and secure, noting that while CCC does not require fencing, the applicants stated they were open to suggestions. Fencing and isolation received extensive discussion. Board members had no additional questions. The public had no further comments. **On a motion by G. Oleen, seconded by C. M. McNeil, and a vote of 5-0, the Board closed the public hearing at 8:13pm.**

Chairman Smith commented Sun Drops, LLC's application was good, complete, and easy to follow. The Board began its deliberations using its Deliberation Guide, with the additional questions required for Marijuana establishments.

#### **Board's deliberations and comments on Sun Drops, LLC's application for a Special Permit**

##### *§9.4.2.2.1 The Social, economic or community needs which may be served by the proposed use.*

The Board discussed the need to create high paying jobs in our community. These jobs lead to more money being spent in our local businesses as well as the need for housing in the area. All these factors are beneficial to our community. The Board also discussed the community need to have this property having a good appearance.

The Board's roll-call vote was 5 - 0 that the beneficial effects DO outweigh any potential adverse impacts.

##### *§9.4.2.2.2 Traffic impact, flow and safety, parking and loading and accommodation to pedestrian and non-automotive transportation.*

The Board discussed that the traffic from this manufacturing operation should be an improvement over the existing business in both volume and reduced level of large, oversized vehicles. This will reduce the noise in that area and the hours of operation are not as early as the existing contracting business.

The Board's roll-call vote 5 - 0 that the beneficial effects DO outweigh any potential adverse impacts.

##### *§9.4.2.2.3 Adequacy of utilities and other public services.*

The Board noted this manufacturing business will not be adding any load to the existing utilities over the previous occupant and will be using less electricity.

The Board's roll-call vote 5 - 0 that the beneficial effects DO outweigh any potential adverse impacts.

*§9.4.2.2.4 Appropriateness to the proposed location, the neighborhood character and town land use objectives.*

The Board discussed that applicant is proposing to remain within the existing building and remove 2 "pole barn" structures attached to the building. The structure has been a manufacturing facility since built and that will not change with the new applicant. There is also a commitment to improving the overall look of the property, which it has not happened in recent years. A condition was added regarding the size of allowable signage.

The Board's roll-call vote was 5 - 0 that the beneficial effects DO NOT outweigh the adverse impacts.

*§9.4.2.2.5 Environmental impacts, including, but not limited to, visual effects, noise, order, dust, vibration, fumes, smoke, light intrusion, glare, impacts on natural habitats, views, water pollution, erosion, and sedimentation.*

The Board noted the applicant is committed to complying with our Dark Skies bylaw. Odor control is always a topic of conversation with regards to marijuana. The applicant will be receiving the product in an oil form and not working with raw flowers. This will greatly reduce the odor being emanated from the operation. In addition, a carbon filtering HVAC system is required. See our conditions for further details on odor control mitigation measures.

The Board's roll-call vote was 5 - 0 that the beneficial effects DO outweigh the adverse impacts.

*§9.4.2.2.6 Potential fiscal impact, including impact on town services, tax base and employment.*

The Board discussed the fiscal impacts to the Town in the form of a 3% community impact fee on the wholesale value of the product, creation of 3 new jobs plus and additional job each year, and that this manufacturing business should be adding to the tax rolls of Sheffield.

The Board's roll-call vote was 5 - 0 that the beneficial effects DO outweigh any adverse impacts.

*§7.5.7 Decision and Findings for an Adult Use Marijuana Establishment.*

In addition to the required findings for a Special Permit required pursuant to Section 9.4, and those finding required for Site Plan Approval pursuant to Section 9.5, the Planning Board as the Special Permit Granting Authority must also find all the following:

- 1. The Marijuana Establishment is consistent with and does not deviate from the purposes and intent of Section 7.5, meets the additional requirements / conditions of Section 7.5.4 and all other applicable Sections of the Zoning By-Laws.*

The Board commented the Sun Drops, LLC's application was easy to follow, complete and complied with Section 7.5 of the Zoning By-Laws.

The Board's roll-call vote was 5 - 0 that the Marijuana Establishment IS consistent with and DOES NOT deviate from the purposes and intent of Section 7.5.

*2. The Marijuana Establishment is designed to minimize any adverse visual, sensory, or economic impacts on abutters and other parties in interest.*

The Board's discussion on this item revolved around the special conditions, which will be part of the Special Permit, and when they were met, this applicant and site would meet all the visual, isolation, and sensory issues raised during the meeting.

The Board's roll-call vote was 5 - 0 that the Marijuana Establishment IS designed to minimize any adverse visual, sensory, or economic impacts on abutters and other parties in interest.

*3. The Marijuana Establishment demonstrates that it meets or exceeds all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations.*

The Board noted the applicant has met all CCC requirements, the Police Chief has reviewed and approved their security plan and they have a signed HCA with the Town for this business.

The Board's roll-call vote was 5 - 0 that the Marijuana Establishment DEMONSTRATES that it meets or exceeds all the permitting requirements of all applicable agencies with the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations.

*4. The applicant / owner has satisfied all of the conditions and requirements of this Section and other applicable Sections of these Zoning By-Laws.*

The Board noted all Zoning By-Law items were covered in Sun Drop LLC's application and once all special conditions are met, they will be in compliance with the intent of the Zoning By-Laws.

The Board's roll-call vote was 5 - 0 that the applicant / owner HAS satisfied all of the conditions and requirement of this Section and other applicable Sections of these Zoning By-Laws.

*5. The Marijuana Establishment provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that all operations of the facility, including storage, cultivation, and delivery are adequately secured on-site or via delivery.*

The fencing condition imposed will limit access to the site and the security measures meet the CCC and chief of police requirements.

The Board's roll-call vote was 5 - 0 that the Marijuana Establishment PROVIDES adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that all operations of the facility, including storage, cultivation, and delivery ARE adequately secured on-site or via delivery.

*6. The Marijuana Establishment adequately addresses issues of traffic demand, circulation flow, parking, and queuing, particularly at peak periods at the facility, and its impact on neighboring uses, as per Sections 7.5.5.2.12 and 7.5.5.2.16.*

As this is not a retail facility, traffic issues listed in number 6 are not present. Only employees will be on the premise and delivery trucks are the size of a small van.

The Board's roll-call vote was 5 - 0 that the Marijuana Establishment adequately ADDRESSES issues of traffic demand, circulation flow, parking, and queuing, particularly at peak periods at the facility, and its impact on neighboring uses, as per Sections 7.5.5.2.12 and 7.5.5.2.16.

There was discussing of having the applicant come back to the Board for approval if their product mix changed, but the Board added a condition that they must come back to review the adequacy of the odor control system. It was noted Sun Drops LLC must appear annually before the Planning Board to provide an update.

The Planning Board, as the Special Permit Granting Authority, granted no waivers and added the following Conditions to the Special Permit:

1. To maintain the character of the area and reduce attention to the business, the Board is requiring the applicant to reduce their sign area by 50% from the 20 square feet allowed in this District; the sign must be no larger than 10 square feet. The Board approved this condition in a 5-0 vote.
2. The Board is requiring that the appropriate carbon filter based odor mitigation equipment be installed and operational at the time of startup. This alleviates any issues that could come from odors emanating from the manufacturing process into the surrounding neighborhood. The Board approved this condition in a 5-0 vote.
3. With regards to light intrusion in the neighborhood, the Board is requiring the applicant to use all Dark Skies compliant equipment and limit lighting to what is absolutely necessary to maintain security of the facility. The Board approved this condition in a 5-0 vote.
4. Fencing on the property shall be as follows: along the East and South property lines, there shall be security fencing of appropriate height equal to the maximum height allowed in Sheffield. On the North and West property lines, the fencing type is at the discretion of the applicant but shall be appropriate for the neighborhood and shall be between 36" - 48" in height. The Board approved this condition in a 5-0 vote.
5. If the manufactured product mix changes and different manufacturing equipment becomes necessary, the applicant shall come back before the Board and confirm the odor mitigation system will handle such changes, or what modifications shall need to be made/installed to the odor mitigation system to contain odors from the new product mix/manufacturing equipment. This shall be done before any new equipment is operational. The Board approved this condition in a 5-0 vote.

**Final Vote:** In keeping with its authority, on July 28, 2021, during its normal business meeting, the SPGA voted 5-0 in a roll call vote as follows:

Kenneth Smith, Chair	Grant
George Oleen	Grant
Robbie Cooper	Grant
Caitlin M. McNeill	Grant

Sari Hoy

Grant

to grant a Special Permit, subject to the above conditions, to Sun Drops, LLC for Marijuana Product Manufacturing (Section 3.1.3.H.4), at 39 Silver Street, Sheffield, MA 01257.

Chairman Smith said the Board will take up and review the Notice of Decision at its next regularly scheduled meeting on August 11<sup>th</sup>.

**Update by Lauren Hyde regarding requested ZBL changes.**

L. Hyde updated the Board on the problem of abutters not receiving required notices and her request requiring Notice to Abutters to be increased to 2500' from the current 300'. She commented the mail system is not working and suggested a system to use for such notifications. Chair Smith read the opinion from Town's legal counsel and said this matter was before the Select Board at its 8/2/21 meeting.

**Review, approval and signing of Notice of Decision for BVD, LLC Solar Permit application.**

Chair Smith read the Notice of Decision for BVD, LLC's Solar Permit, which the Board had previously granted. Board members concurred with the Notice's wording and signed the document. The Chairman will submit it on 7/30/21 to the Town Clerk, whose acceptance will begin the 20 day appeal period.

**Approval of Board minutes of 7/14/21.**

**On a motion by G. Oleen, seconded by S. Hoy, and a vote of 3-0-2, the Board accepted the minutes as presented. C. M. McNeil and S. Hoy abstained.**

Mail. Reviewed

**Board Member Items.**

G. Oleen discussed 2 changes to the Solar ZBL to clarify definitions of small scale versus large scale solar installations. This is an outcome of BVD Solar, LLC's actions. Chairman Smith asked him to draft his suggested changes to the Solar ZBL and bring the draft to the Board for review.

Public Inquires. None

**Board Adjournment.**

**On a motion by S. Hoy, seconded by G. Oleen, and unanimously approved 5-0, the Board adjourned at 9:51pm.**

Respectfully submitted,

Rene Wood



**Meeting Materials:**

Sheffield Planning Board Sign in sheet for 7/28/21

Meeting Agenda

Letter of Transmittal, survey plans, and Form A submitted for BerkHill 73 Sheffield LLC, Sheffield by Foresight Land Services



Sun Drops, LLC Public Hearing Notice

Sun Drops, LLC Special Permit Application

Deliberation Guide for Sun Drops, LLC

Deliberation Guide and Planning Board Special Permit Decision for BVD Solar, LLC

Email from Lauren Hyde to Town Hall, dated 7/22/21 at 3:54pm

Draft Planning Board minutes for 7/14/21