



Received by the Town Clerk:

Date:

JUL 26 2022

*[Signature]*

Application complete \_\_\_\_\_

Application incomplete \_\_\_\_\_

Signed: \_\_\_\_\_

APPLICATION COVER PAGE

Date: 7/12/2022

Date Received by ZBA: \_\_\_\_\_

Name of Applicant and Mailing Address: FFD Enterprises MA, Inc.

40 Woodland Street, Hartford, CT 06105

Email Address: bzachs@finefettle.com Telephone Number: (860) 490-0339

Name of Owner and Mailing Address (If not Applicant): Cedar Box MV, LLC

455 State Road, Vineyard Haven, MA 02568

Map and Lot #: Map 16, Lot 101

Street Address of Subject Property: 510 State Road, West Tisbury, MA

Applicant is: Tenant (Owner, Tenant, Purchaser, Other)

Nature of Application (Special Permit, Appeal, Variance): Modification of Special Permit

Applicable Section of Zoning Bylaw: 9.3-3

Date of Denial by Building Inspector, Zoning Inspector, or Planning Board (If Applicable): \_\_\_\_\_

Plot Plan: Must provide a plan by a registered surveyor showing the total property with the existing buildings, including the proposed project, all setback distances to be provided.

Plans: 2 sets of scaled drawings of floor plans that show total sq. ft. per floor (measured from exterior of wall), at least 2 elevations with one showing proposed height to ridge. If the project is an addition to existing structure please clearly identify proposed work.

Description of proposed project: Please attach a detailed narrative.

I have read the overview of the ZBA process attached to this application and completed all sections of the application cover page and therefore request a hearing before the West Tisbury Zoning Board of Appeals with reference to the above noted application.

Signed: Benjamin Zachs ceo

Title(s): Attorney

Application fee of \$200.00 is required. Date Paid: 7/12/22 # 1960

FOR ZONING BOARD USE

Size of Subject Lot: 0.405 ac Zoning District: MB

Registry Book and Page #'s and Date 1542-187

Other Boards Involved with the Permitting:

\_\_\_\_\_

Within an Overlay District?

\_\_\_\_\_

Martha's Vineyard Commission Referral Required? \_\_\_\_\_ If So, MV Checklist Items:

@ MVC

## **Modification Request**

FFD Enterprises MA, Inc. ("FFD") seeks a Modification of the Special Permit with CONDITIONS granted by the West Tisbury Zoning Board of Appeals (the "ZBA") to FFD on April 8, 2021 for the operation of an Adult/Recreational Use Marijuana Dispensary (RMF) and a Registered Medical Marijuana Use Dispensary (RMD) at 510 State Road, West Tisbury, MA 02575. (the "Property"). (See, 935 CMR 500.000 and 501.000. A copy of the Special Permit with CONDITIONS is appended hereto as Exhibit A.

The Conditions incorporated into the Special Permit are:

1. This special permit is restricted by all conditions of the Martha's Vineyard Commission decision on DRI 696 dated August 13, 2020 and recorded on September 17, 2020 in Book 1543, Page 133, to the extent that they do not specifically conflict with the conditions set forth in this special permit.
2. Hours and days of operation are allowed as follows: September 1<sup>st</sup> through April 30<sup>th</sup> Monday through Saturday 9:00 am to 6:00 pm. and May 1<sup>st</sup> through August 31<sup>st</sup> 9:00 am to 7:00 pm. No Sunday hours allowed.
3. Sales are to be "by appointment only"; no walk-in sales allowed.
4. No vehicles are permitted on the premises without a previously scheduled appointment.
5. A sign at the entrance to the parking lot and all promotional material will clearly state the "by appointment only" restriction.
6. No more than five (5) appointments allowed per fifteen (15) minute period, with an additional sixth appointment reserved for express orders.
7. No request for modification shall be filed until at least six (6) months after commencement of operations, and this six (6) month period shall include July and August.
8. This special permit for the business use as a medical marijuana and adult use marijuana dispensary is for the applicant's use only. Any transfer of state licensing for the dispensary or the lease of the commercial space to another entity for the use as a marijuana dispensary must return to the Zoning Board of Appeals with a new application.

FFD has complied with all of the Special Permit Conditions, and FFD has complied with all of the conditions of the Martha's Vineyard Commission decision on DRI 696 dated August 13, 2020, recorded on September 17, 2020 in Book 1543, Page 133 as required by Special Permit Condition No. 1.

More than six (6) months have elapsed since FFD commenced operations of the Dispensary on July 23, 2021, which included the months of July and August, 2021 as required by Special Permit Condition No. 7.

FFD requests that the ZBA modify Conditions Nos. 2, 3, 4, 5 and 6 as follows:

- a. Condition No. 2:  
Hours and days of operation are allowed as follows:
  - 1. Labor Day through Memorial Day, Monday through Saturday 9:00 AM to 6:00 PM;
  - 2. From the day after Memorial Day through the day before Labor Day, Monday through Saturday 9:00 AM to 7:00 PM and Sunday, 12:00 Noon to 6:00 PM.
- b. Condition No. 3: Delete
- c. Condition No. 4: Delete
- d. Condition No. 5: Delete
- e. Condition No. 6: Delete

FFD has sought and received modification of certain conditions imposed by the Martha's Vineyard Commission (the "MVC") in its September 10, 2020 approval with conditions of the project submitted by Patient Centric of Martha's Vineyard and subsequently transferred to FFD. (DRI #696) . Copies of the original MVC Decision and the MVC modification of conditions are appended hereto as Exhibits B and C.

**Bases for Request for Modification of Conditions**

Since the opening of the dispensary at 510 State Road, West Tisbury, Fine Fettle has had no compliance infractions in the town or with the Cannabis Control Commission, There have been no complaints regarding traffic; no customers have left the facility and gone onto neighbors' properties; and there have not been any traffic incidents within Fine Fettle's parking lot or upon exiting the parking lot onto State Road. Fine Fettle believes that this data from its seven months of operation represent its ability to manage traffic and to be trusted as an operator of a new and unique business in West Tisbury.

In its first year of operation, Fine Fettle has been completing the average order for customers and patients with an online pre-order in 2 minutes and 15 seconds; it has been completing the average order for customers who order in store in 3 minutes and 40 seconds. Fine Fettle's request to remove Condition nos. 3 through 6 of the Special Permit that sales be "by appointment only" and not to walk-in customers, that no vehicles enter onto the premises without a previously scheduled appointment, that a sign at the entrance to the parking lot and all promotional materials state that that customers must make an appointment to come onto the premises and into the dispensary, and that only 5 appointments are allowed in every 15 minute period, is based on its experience that the appointment only designation is an unnecessary burden for both customers and also for patients, and creates difficulties for customers and staff to place orders, to fit within the schedule, and to be able to choose the proper products and increases the transaction time. Elderly customers and new customers, especially, have been unable to make a reservation online, let alone ask questions about product in a telephone conversation.

With the current system of sales by appointment only, appointments made on-line or via telephone consume incredibly more time when compared against the average transaction time and the system is limiting customers' ability to come into the dispensary and make a purchase. As it is *federally illegal* to transport cannabis over federal water, residents and visitors of the island are only allowed to purchase cannabis from Fine Fettle or the other dispensary on the island. The more burdensome system of sales "by appointment only" makes that purchase significantly more difficult.

Additionally, Vineyard Haven has allowed "Island Time" to remove the appointment-only designation with approval from its police department, which was quickly granted after opening.

As FFD has proven its ability to safely operate its dispensary at 510 State Road, West Tisbury and has been a good and quiet neighbor, it believes it should be able to open for limited hours on Sundays. FFD is not requesting to open in the morning or to stay open late on Sunday, so that traffic to the dispensary will be in mid-day and daylight hours. These hours would match the times that Island Time in Vineyard Haven is open on Sundays.

All public access to the facility will continue to occur through a secure entry vestibule in which patients and customers must demonstrate proof that they have the appropriate government issued identification to gain access into the facility. Qualified customers will continue to have access only to a small portion of the Property. The dispensing area includes (1) a secure entry and exit vestibule in which patients and customers must demonstrate proof that they have the appropriate credentials to gain access into the facility; (2) a general sales floor with point-of-sale terminals; (3) a secure patient consultation area; and (4) a secured exit and vestibule.

FFD has installed signage and other pedestrian cues in the parking lot to ensure that pedestrians are able to traverse the lot safely and has posted signage stating that loitering is prohibited in the parking area and that respect must be shown to the neighbors in this mixed business/residential area.

FFD presently employs live, on-site security during all opening hours to ensure the safety of the perimeter and maintain access control to the facility. FFD has installed security infrastructure to prevent and detect potential loss and diversion of marijuana, which includes perimeter alarms, failure notification systems, panic alarms connected to local law enforcement, and video cameras in all areas that contain marijuana as well as all points of entry and exit that are instantly accessible to local law enforcement and also redundant alarm systems to ensure that security features will remain operational in instances of power outages or system failure.

*FFD has agreed to pay for and install a sign (or multiple signs) in the Tea Lane Associates parking lot, stating "Tea Lane Associates Parking ONLY," with the final design and placement to be as requested by Tea Lane Associates.*

KAPLAN & ASSOCIATES, P.C.  
ATTORNEYS AT LAW  
63 WINTER STREET  
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EDGARTOWN, MASSACHUSETTS 02539

ELLEN B. KAPLAN  
KATHRYN SULLIVAN

TELEPHONE (508) 627-3100  
FACSIMILE (508) 627-3301

HAND DELIVERED

July 12, 2022

Kim Leaird, Board Administrator  
West Tisbury Zoning Board of Appeals  
West Tisbury Town Hall  
1059 State Road, P.O. Box 278  
West Tisbury, MA 02575

Re: FFD Enterprises MA, Inc.  
Application for Modification of a Special Permit for  
510 State Road, West Tisbury, MA

Dear Ms. Leaird:

Enclosed with this letter is an Application, together with the filing fee, submitted on behalf of FFD Enterprises MA, Inc. ("FFD") to modify certain provisions of the Special Permit granted to FFD on April 8, 2021 for the operation of a Medical Use and Adult-Recreational Use Marijuana Dispensary at 510 State Road, West Tisbury, MA. (Map 16, Lot 101). A hearing on the request for modification of the Special Permit is presently scheduled before the Zoning Board on Thursday, August 11, 2022 at 5:35 PM.

The Martha's Vineyard Commission has approved FFD's Request for Modification of certain conditions pertaining to the operation of the dispensary at 510 State Road, West Tisbury, MA. The approval decision should be released this week.

If you need further information or have any questions, please do not hesitate to contact me.

Thank you for your assistance in this matter.

Very truly yours,

  
Ellen B. Kaplan

EBK/lkk  
encs.