

Town of Moretown Development Review Board  
79 School Street, Moretown, Vermont 05660

Decision

Application No. 23-12 Application of Bernardo Silva for the use of an existing accessory structure for Home Based Business in the Commercial District located on property owned by Grow Properties, LLC at 2016 US Route 2 in Moretown.

This is the Decision of the Moretown Development Review Board in connection with the Application of Bernardo Silva for a Home Based Business in the Commercial District at 2016 US Route 2.

The Board incorporates by reference the information presented at the April 20, 2023 Hearing as set forth in the Board's Minutes dated April 26, 2023. The Applicant seeks approval to utilize a portion of the 2016 US Route 2 property for a cannabis growing facility. Mr. Silva has a pending application for approval before the Vermont Cannabis Control Board seeking a Tier 2 Mixed Cultivation License involving growing plants both within the existing greenhouses and outside the greenhouses, in an area adjacent to them.

Section 3.10 titled "Home Based Businesses" provides that Moretown Zoning regulations will not infringe upon the right of a resident to use a minor portion of a dwelling for an occupation which is customary in residential areas, and which does not have an undue adverse effect upon the residential area in which the dwelling is located. The home occupation is to be carried on by residents of the dwelling unit. One additional employee who is not a resident of the dwelling unit is permitted.

This Section goes on to provide that home occupations are:

1. Accessory uses to residential properties, which are clearly incidental and secondary to the residential use;
2. Conducted wholly within the principal structure and occupy less than 25% of the entire floor area of such structures. Home occupations in accessory buildings may be permitted by the Development Review Board in accordance with site plan review under Section 5.2. The provision also provides the occupation not be retail in nature.

As an initial matter the Board concludes that the proposed business activity does not qualify as a "Home Occupation" as that term is defined in the Ordinance which requires the "occupation" be "customary" in residential areas. Use of the facility as part of a

larger business enterprise involves a newly legal, and heavily regulated enterprise by the State of Vermont. The matter was warned as an Application for a “Home Based Business” and Moretown zoning considers “Cottage Industry” as a home based business. The Board concludes it can grant site plan approval for the proposed activities as a Cottage Industry. Accordingly, approval is granted of the Application as a Cottage Industry upon the following conditions:

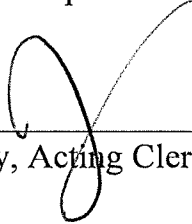
1. Applicant submits an amended Application, or statement signed by an authorized agent of Bernis Dobis, LLC, stating the Company joins in the Application as presented and acknowledges that it, together with Mr. Silva, is subject to the terms and conditions of this approval.
2. That the Applicant, before initiating operation, obtain a licensing approval as a Tier 2 Mixed Cultivation Facility from the Cannabis Control Board.
3. That Mr. Silva and Bernis Dobis, LLC at all times operate the facility in compliance with the terms of the license approval, including the approved operating plan and security plan.
4. In particular, that the barbed wire security fence limiting access to the greenhouse locations be maintained and kept in good condition and repair; remain locked except to allow access by authorized individuals; and that a video surveillance and alarm system be operational and maintained in the manner presented at the April 20 Hearing.
5. That the access gate controlling access to the greenhouse area be maintained and operational in good repair so long as the facility is utilized to grow and harvest cannabis.
6. All interior and exterior lighting utilized to assist in plant growth shall only be utilized between the hours of 5:00 am and 9:00 pm.
7. The facility is not presently approved for year-round use of growing of plants. As represented by the Applicant, growing plants may begin in early Spring within the greenhouses, and continue through October, with harvesting completed by early November of each year.
8. That no storage, drying, or processing of harvested plant material occur on site. As represented by the Applicant, only one employee in addition to the residents of the existing home are approved at this time. This approval is also subject to the terms and conditions applicable to cottage industries

including the statement that the facility is approved as a Home Based Business which is accessory to the present principal residential use, and to be retained in common ownership and management. The cottage industry may be subdivided and/or converted for sale or use apart from the residential use only if it meets all current municipal and State regulations and bylaws pertaining to such use.

The Board considered Section 3.10(D)(2) requirement that the business occupy less than 50% of the combined floor area of all structures on the lot. Taking official notice of the Town's Listers' card, the Board concludes the square footage of the greenhouses and grow areas are less than 50% of the combined floor area of all structures when one considers the square footage of the greenhouses themselves; the exterior buildings associated with the residence; and the residence itself.

Dated this 26<sup>th</sup> day of April, 2023.

Moretown Development Review Board



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By John Riley, Acting Clerk