



TOWN OF IPSWICH

IPSWICH, MASSACHUSETTS 01938

PLANNING BOARD

CERTIFICATE OF VOTE

Special Permit Approval

New England Biolabs, Inc. – 240 County Road

Special Permit Decision for Uses Involving Hazardous and Toxic Materials

Pursuant to the authority vested by *Section IX.N Requirements for Uses Involving Hazardous and Toxic Materials* and *Section XI.J Special Permits* of the Protective Zoning Bylaw of the Town of Ipswich, the Planning Board (hereinafter referred to as the "Board") grants a special permit (the "Permit"), with conditions, to New England Biolabs, Inc., and to its heirs, successors and assigns (hereinafter referred to as "the Applicant"), to allow the use and storage of hazardous and toxic materials in conjunction with a biotechnological research and development and processing establishment located at 240 County Road (Assessor's Map 63, Lot 7).

All application materials and submissions are incorporated by reference into this decision.

PUBLIC HEARING

The Board held an advertised public hearing with respect to the application on February 17, 2022. The hearing was continued on March 10, 2022, and September 8, 2022 and September 29, 2022 (the Applicant and Board consented to continuances between the March and September meetings). Upon close of the hearing on September 29, 2022, the Board adopted a motion to approve the application, subject to the conditions listed herein. The Board based its decision on information provided by the Applicant, with consideration of testimony given at the aforementioned public hearings.

FINDINGS

As a result of the information obtained by the Board, the Board finds the following:

1. The Applicant's submittal materials include sufficiently detailed, definite, and credible information to show that the Board's granting of this special permit is consistent with the intent of this bylaw.
2. Although the Applicant's request is related to a specific use of the property at 240 County Road, the special permit issued herein does not approve the overall use (research & development and related processing facility in a GEPD) but rather the use and storage of hazardous and toxic materials.
3. Since 2005, the Applicant has operated its biotechnological business of research and development and related processing at 240 County Road in accordance with a special permit decision for Storage and Use of Hazardous Materials granted by the Board on January 13, 2001, recorded in the Essex South District

Registry of Deeds, Book 16991, Page 451. The special permit was granted pursuant to Section V of the Bylaw, which then governed such uses. The special permit was for the Applicant's laboratory building of approximately 150,000 sq. ft.

4. In 2008, the Bylaw was amended to better regulate uses involving hazardous and toxic substances and the provisions of Section V were replaced with Section IX.N.
5. The Applicant is currently constructing a 100,000 sq. ft. addition to its laboratory building commonly known as the "Garden Expansion" that is scheduled to open in March 2023. For the mutual convenience of the Applicant and the Town of Ipswich in monitoring the uses of hazardous and toxic materials at 240 County Road, the Applicant will operate both the existing building and the Garden Expansion under this special permit and the 2001 special permit will be superseded.
6. The Planning Board retained a Consultant from Chubb Global Risk Advisors to review the Applicant's special permit application and supplemental materials. The Board has taken into consideration the Consultant's observations and recommendations and have incorporated them herein.
7. The proposed use shall in no way adversely affect the existing or potential quality or quantity of water, and adequate safeguards have been taken to minimize public exposure to hazardous and toxic materials and to reduce the risk of fire hazard.
8. The benefit to the Town outweighs the adverse effects of the proposed use. In making this determination, the Planning Board applied the following criteria: social, economic, or community needs which are served by the proposal; potential fiscal impact, including impact on Town services, tax base, and employment, traffic flow and safety, including parking, loading; adequacy of utilities and other public services; compatibility with neighborhood character; and impacts on the natural environment. In doing so, the Board concluded that the research and development facility (with associated biotech manufacturing), which uses the hazardous and toxic materials, would serve both an economic and community need and would have a positive fiscal impact on the Town, by increasing employment and enhancing the tax base.

APPROVAL WITH CONDITIONS

At its regular meeting on September 29, 2022, the Board voted **X to X** based upon its findings, to approve the Special Permit, subject to the following conditions:

1. The location to which this Permit applies is 240 County Road, Ipswich, Massachusetts. The property is more fully described as Assessor's Map 63, Lot 7.
2. This special permit is granted specifically to New England Biolabs, Inc. Any change in control of New England Biolabs, Inc. shall require a new special permit for the subsequent user. For purposes of this decision, change of control shall be defined as (i) the sale by New England Biolabs, Inc. of its operating assets located on the lot to an unaffiliated entity; (ii) a merger or consolidation resulting in the stockholders of New England Biolabs, Inc., if any, owning less than one-half of the stock of the surviving corporation; (iii) the sale of more than one-half of the issued stock (if any) of New England Biolabs, Inc. to parties who were not stock-holders of New England Biolabs, Inc. as of the date of this special permit approval.

3. No amendment, alteration, waiver, or other change in this permit shall be effected other than by an affirmative vote of four or more members of the Board, and by the issuance of an amended Special Permit decision.
4. All applicable state and local laws, bylaws, codes, and rules and regulations shall be complied with, and all necessary licenses, permits and variances shall be obtained by the Applicant.
5. If the Applicant uses and stores hazardous and toxic materials that are included on the List of Extremely Hazardous Substances and their Threshold Planning Quantities (Federal Regulation 40 CFR Part 355, Appendices A and B) the Applicant must report to the Fire Department.
6. All incoming and outgoing hazardous and toxic materials shall be monitored by an inventory system, which complies with the standards of the Massachusetts Department of Environmental Protection.
7. To monitor and oversee the use and storage of hazardous and toxic materials at New England Biolabs, Inc., the Town established a Public Safety Oversight Committee. The Committee is required to meet at least once a year and is comprised of the Fire Chief or his or her designee; the Board of Health Agent; a member of the Planning Board; at least one neighborhood resident; a consultant with expertise in hazardous and toxic materials, whose services are to be paid for by the Applicant; and any others as deemed appropriate by the Town Manager. The Committee shall review documentation concerning the type and amount of hazardous and toxic materials being stored and used by New England Biolabs, Inc., as well as the procedures being employed by the Applicant to ensure that the materials do not pose a threat to the employees of New England Biolabs or to the public at large.
8. Prior to the issuance of a certificate of occupancy for the Garden Expansion, the Applicant shall:
 - a. Provide the Town's Board of Health, the Department of Public Safety, and Public Safety Oversight Committee with an updated inventory of hazardous and toxic materials, as well as all relevant reports prepared by review agencies, safety officers, and/or safety consultants, since the date of this decision.
 - b. Provide an orientation tour of the facility to public safety personnel of the Town of Ipswich. The purpose of the tour will be to show safety officials the location of hazardous and toxic materials being used and/or stored in the Garden Expansion, as well as the location of special clothing or other materials that may be of use to safety personnel in case of a safety event.
 - c. Coordinate with the Fire Department and the Local Emergency Planning Committee to constructively review site hazards and to develop and maintain a Pre-Plan.
 - d. Receive approval from the Fire Department and Building Inspector that the area(s) used to store hazardous waste have been designed and constructed in accordance with applicable building and fire codes.
9. The Applicant shall provide annual chemical safety training to local emergency responders who may be called upon to respond to the facility that includes training on the materials, labeling, and hazards they could encounter at the facility, as well as a review of where the high-hazard materials are stored and used, and the monitoring and control systems used to secure and contain these materials.

10. The Applicant shall maintain on the premises an inventory, reconciled no less than once per year, of purchase, use, sale (excluding sales made in the ordinary course of business) and disposal of hazardous and toxic materials.

A copy of this Decision shall be filed with the Town Clerk of the Town of Ipswich, and one copy shall be mailed to the Applicant. This decision may be appealed pursuant to Section 17 of Massachusetts General Laws Chapter 40A.

This Permit shall become effective only upon the Applicant's recording of a copy of this Decision of the Planning Board, certified by the Town Clerk of Ipswich, with the Southern Essex District Registry of Deeds as required by Massachusetts General Laws, Chapter 40A, Section 11.

Executed this ____ day of September, 2022.

I, Toni Mooradd, certify that I am Chair of the Planning Board of the Town of Ipswich, Massachusetts, a Planning Board established pursuant to Massachusetts General Laws, Chapter 41, Section 81A, and I further certify that this decision was approved by the Planning Board at its meeting of September 29, 2022 and that the Board has authorized me to sign decisions on its behalf.

Toni Mooradd, Chair
Ipswich Planning Board