

**Town of Leicester Planning Board
Meeting Minutes**

MEMBERS PRESENT: Jason Grimshaw, Debra Friedman, Sharon Nist, Adam Menard,
David Wright,

ASSOCIATE MEMBER: Alaa AbuSalah

MEMBERS ABSENT:

IN ATTENDANCE: Michelle Buck, Town Planner; Barbara Knox, Board Secretary

MEETING DATE: April 5, 2016

MEETING TIME: 7:00PM

AGENDA:

- 7:00PM Public Application, Continued Discussion:
 Site Plan Review and ANR Plan, Solar Farm, Borrego Solar, 466 Stafford Street
- 7:30PM Public Hearing:
 Zoning Bylaw Amendment, Medical Marijuana Treatment Centers
- 8:00PM Town Planner Report/General Discussion:
- Town Meeting/May Meeting Schedule
 - Update on Estate Planning Grant
 - Miscellaneous Project Updates

Mr. Grimshaw called the meeting to order at 7:00PM

Public Application, Continued Discussion:

Site Plan Review and ANR Plan, Solar Farm, Borrego Solar, 466 Stafford Street

Mr. Steve Long of Borrego Solar represented the application. He received Kevin Quinn's comments and noted all comments were resolved with no further comments received. A gate will be installed at the access road and will be placed far enough in to allow a truck to pull up and be off the main road when opening the gate.

Ms. Buck confirmed receiving Kevin Quinn's comments and that all issues were resolved. She then reviewed the draft decision. Page 4 of the Decision under Waivers, will state that the Board accepts the final Stormwater information provided by the applicant as reviewed and approved by Quinn Engineering. Page 5, there are no paper copies of the plan, they were submitted electronically. Therefore, the applicant will be required to submit 2 full size and 2-11 x 17 full sets of the final plan, as well as a pdf copy.

Hearing no comments from the public and no further comments from the Board, Mr. Grimshaw asked for a motion.

MOTION: Ms. Friedman moved to approve the Site Plan Review for 466 Stafford Street Solar Project

SECONDED: Ms. Nist – Discussion: None

VOTE: All in Favor

ANR Plan – 466 Stafford Street

The applicant was requested to submit the ANR prior to the start of any work. This plan divides the parcel into three separate pieces. All three lots have the required 50 feet of frontage for a solar farm. One parcel has frontage off Auburn Street and the other two parcels have frontage off Stafford Street.

MOTION: Ms. Friedman moved to approve the ANR Plan for 466 Stafford Street

SECONDED: Ms. Nist – Discussion: None

VOTE: All in Favor

Town Planner Report

Town Meeting/May Meeting Schedule

The May Planning Board meeting schedule needs to be changed because of Town Meeting. There have been two new applications received: a solar farm to be located at 148 Henshaw Street and a Special Permit application for modification of the drive thru at Mike's Donuts. After some discussion, all agreed to schedule the May meeting for Tuesday, May 17, 2016.

Update on Estate Planning Grant

This is a grant the Town received for Estate planning for large land owners. The grant paid for brochures and the mailing to 207 land owners in Leicester, which included anyone who owns Chapter land and land owners of 10+ acres.

Miscellaneous Project Updates

- CMRPC sent out invitations to Planning Board Members to attend a Regional Forum and the topic of discussion would be on pressing zoning issues.
- Ms. Buck looked into the concern brought up at the last meeting regarding the limited use of large trucks using the access drive off Stafford Street entering into the Central Mass Crane site. She said there was discussion at three of the meetings and at one of the meetings, the Board had asked to limit use of the Stafford Street entrance and to have the cranes coming from the south, to use the Stafford Street entrance. The engineer for the applicant agreed to that, but it didn't make it into the written decision. Ms. Buck agreed to contact the applicant to discuss this concern.
- One of the solar farms proposed an unusual form of surety. Instead of doing a bond or a letter of credit or a standard escrow account, this applicant was proposing to do an escrow account where they would deposit a certain amount of cash each year over a 5 or 10 year period. After some discussion, the Board felt the appropriate measure was for the applicant to submit a bond.

Public Hearing

Zoning Bylaw Amendment, Medical Marijuana Treatment Centers

Mr. Grimshaw read the Notice into the record, gave the instructions on meeting procedures, and explained the Planning Board's process on Bylaw Amendments.

Ms. Buck explained that after the State legalized Medical Marijuana Treatment Facilities in 2013, the Town adopted a Bylaw that allowed this use in several zoning districts with a 1,000

foot setback from a range of uses, such as child care facilities, schools, parks, etc. At that time, the Board mapped out the areas where a facility could go, based on the current information available and where child care facilities existed at that time. The use is listed as being allowed in 6 zoning districts, but as a practical matter it's only allowed in 3, because of the setbacks. It's allowed in HB1, HB2 & BR1. Under consideration tonight are several changes to the existing Bylaw.

When the Town adopted this Bylaw, it was done after the State adopted their Bylaw, but prior to the State's Department of Public Health Regulations related to this use. When the Attorney General's Office reviewed the Town's Bylaw, they recommended the Town reference in their Bylaw that the Department of Public Health Regulations calls this use a Registered Marijuana Dispensary. On page 1, the first change is adding a sentence to the definition of a Medical Marijuana Treatment Center, saying that once a center was registered with the State; it would be called a Marijuana Dispensary.

The Use Table will show a change, because there's been a lot of confusion on this. Ms. Buck explained that at the time of adoption, the Board listed this use as allowed in the Business District and Central Business District, but the buffers eliminated those districts because they are small districts. So the Use Table will show those two districts being eliminated from this use.

On page 2, the paragraphs were separated related to the standard buffer requirement for Medical Marijuana Centers and the reduced buffer requirement for facilities that do not have any on-site sales. Additional language was added to clarify how the distance was measured from residential district boundaries. The buffers remain the same for dispensaries, at 1,000 feet from the uses listed. The draft proposal reduces the buffer to 200 feet from residential zoning districts and 500 feet from all other uses listed, on facilities that are primarily for cultivation with no on-site sales.

The final change is with the Site Development Standards. These standards primarily affect the commercial districts and are related to how much landscaping required, width of landscape buffers between residential and commercial uses, a specific requirement for the planting of trees in parking lots, and how wide the driveways have to be. Two of the districts that allow this use, both current and proposed, do not have any standards for commercial development. What is being proposed for the two districts, Industrial District and the Business Residential 1 District, is that if a Medical Marijuana Facility comes in, they will have to comply with the same Site Development Standards that are required in the Highway Business Districts.

Mr. Grimshaw asked for clarification that the 200 foot buffer was not necessarily from a location or site, but it's from the site location to the edge of the district. Ms. Buck said the setback was not from residential uses, but from residential zoning districts, which is currently 1,000 feet. The amendment would put it to 200 feet for facilities that do not have on-site sales.

Mr. Grimshaw asked what the difference was on the 500 foot buffer with the cultivation facilities. Ms. Buck explained for the cultivation facilities and no onsite sales, it was 200 feet from zoning district boundaries and 500 feet from parks, playgrounds, childcare facilities, etc.

Mr. Wright questioned what the Attorney General's Office said and the proposed amendment. The AG's Office said cultivation was also classified as a marijuana treatment center, registered under Massachusetts Department of Public Health Regulations. He felt if that were the case, then it was registered as a marijuana dispensary and the proposed setback contradicts the 1,000 foot buffer for a dispensary. He asked if a cultivation facility, per the State Regulations of the Department of Public Health, was also being classified as a marijuana dispensary. If the State did not differentiate between the two, he didn't see how the buffers could be reduced.

Ms. Buck explained the State wants them all together and has one definition of a Registered Marijuana Dispensary. It includes anything licensed under the provisions of the law, whether its cultivation or a dispensary. However, the Town can set their own setbacks and definitions. She said there were two ways to approach this Bylaw amendment. One was trying to establish entirely new definitions, which became very complicated and because this amendment proposal is under a tight time frame. The other is how the draft was prepared, which is more clearly written. The Town can establish their own buffers, so it doesn't matter that the State says both uses fall in their same definition. The facilities will still have to comply with the Town's local setback requirements.

The way the State law was written, if the Town's Bylaw was silent on buffers, the State law with a 500 foot setback would apply to the range of uses where children congregate. This was the reason that in the draft the only buffer reduced to 200 feet, was from the district line and all the others were left at 500 feet and was consistent with State Law.

Mr. Grimshaw felt lining the Bylaw up with State Law makes sense in terms of buffers. Retaining the 1,000 foot buffer on dispensaries and maintaining or adjusting to a 500 foot buffer for cultivation facilities and the 200 foot buffer to the edge of the zone, he agreed with the amendment as proposed. If the Board recommends approval of the amendment, he felt lining up with the State makes it consistent and makes sense.

Discussion was opened to the Public

Ms. Kathryn Hunt Baker, 141 Clark Street, said she operates a Home Daycare Facility from her home. According to the map, her home will be 450 feet from where a facility was looking to locate. She has been a licensed Daycare Provider since January 2013. She asked if this amendment passed, what will it mean to her and her State license. Mr. Grimshaw explained if the amendment passed, it should not affect her or her license. If an applicant was to apply for a cultivating facility in the area and was 450 feet away from a daycare facility, it wouldn't be allowed, because the buffer is at 500 feet. Ms. Friedman agreed and said given the 500 foot is a State Regulations, the facility would have a hard time coming in and saying the Town wasn't following State Regulations.

Ms. Anna Olivo, 139 Clark Street, said her concern was regarding the two large warehouses that abut her residential neighborhood and the 200 foot buffer will be the only thing stopping those buildings from being used. Not all the properties are zoned residential, some are zoned agricultural and some are zoned commercial agricultural, which would place a facility right next to her neighborhood. She was concerned with the property values being affected and small

children in the neighborhood. She didn't understand why the Town would want to reduce the buffer so a facility could be closer to schools or daycare facility.

Mr. Sean Giles, 140 Clark Street, said his land abuts the property in question. His concern was with the lighting of the lot and whether a fence would be required between properties. He was also concerned with vandalism in the neighborhood and also wanting to see something like a fence that would keep children from wondering onto the site. Ms. Buck said if there wasn't a child care facility in the area of the building under consideration, the use would be allowed. The second facility of concern at 143 Clark Street was in a zoning district where the use would not be allowed.

Ms. Buck explained the reason behind this amendment wasn't for one particular applicant or interested party. The Town had been approached by multiple companies interested in having cultivation and processing facility in Leicester and the current zoning is very restrictive on that point. The Town wants to attract additional commercial development, so the reduction in the buffer just doesn't affect that district, but other zoning districts with available commercial land. In terms of the two buildings mentioned, the Town wants to get tenants for both of those building and not necessarily a medical marijuana facility. That district already allows light industrial and the buildings could also be used for intensive commercial uses.

Mr. Grimshaw said the Board is sympathetic to the concerns of the abutters knowing that area abuts a commercial zone where it can get tricky. Ms. Friedman noted those two properties weren't the only areas being looked at. All of Stafford Street, Route 9 and Huntoon Highway were also areas being considered.

Mr. Wright asked for clarification regarding paragraph 2 on page 2 of the handouts. It talks about a reduced buffer for facilities with no on-site sales. He asked if it made better sense to say, "Buffer requirements, no medical marijuana treatment centers with on-site sales, may be located within 1000-feet of residential zoning districts." He felt it would make it clearer that it would be for a dispensary versus a cultivation center. All agreed.

Mr. Kevin Baker, 141 Clark Street, asked if there was anything in zoning that would prevent these facilities turning into recreational facilities down the line. Mr. Grimshaw wasn't sure and felt that was something that would need to be addressed separately and would probably need a totally different Bylaw. Ms. Buck noted there was a question on the ballot in November regarding recreational marijuana.

Mr. Baker asked if the Town was considering a zoning amendment not to allow a cultivation facility to become a selling facility. Ms. Friedman said the Board would need to wait until after the election to see if the ballot question passed before addressing that concern. Ms. Buck agreed that if the ballot question passed, the Bylaw would likely need to be amended again. She said what was written in this amendment, only addresses the medical marijuana and by having this on the books, will not automatically allow recreational sales.

Ms. Friedman said this would be like a brewery, they can produce it, but they can't have people come in and drink it there.

Ms. Olivo said she would be more comfortable having a 500 foot buffer from a residential district as opposed to 200 feet. She felt 200 feet from someone's home was too close. The purpose and intent of the Bylaw was to provide for the limited establishment of medical marijuana treatment centers in appropriate places to minimize adverse impact on residential neighborhoods and this amendment will be decreasing the buffer rather than increasing.

Mr. Giles asked what the difficulty was on retaining or bringing businesses into Leicester. Mr. Grimshaw felt that wasn't a question for this Board and was more of a question for the Economic Development Committee to answer.

Mr. Harry Brooks, 2 Wesley Drive, said he has asked that question at multiple meetings regarding if recreational marijuana became legal, could medical facilities sell it recreationally. He was told it would be a question that would need to go before Town Counsel when that time came.

Ms. Friedman felt aligning the amendment up with the State Law as much as possible was a good idea and made it a neater presentation.

Mr. Grimshaw asked about the 200 foot buffer.

Ms. Friedman, Ms. Nist, Mr. Menard and Ms. AbuSalah didn't have a problem keeping the 200 foot as proposed. Mr. Wright felt a 500 foot buffer was appropriate, as opposed to the 200 foot proposed.

Ms. Friedman felt from the informational meeting held, the representatives explained the type of security they would have and the little noise there would be. She felt there would not be any difference between this facility and any other kind of industrial use being there. She said there would be less lighting and everything would be inside the building having a lot of security on site.

Mr. Wright said he was not disputing the zoning, he felt a 200 foot buffer was too close to the residential district line. Outside of that, he didn't have a problem with the rest of the buffer requirements.

Mr. Grimshaw reviewed the Board agreeing with the State guidelines on 1,000 feet for dispensaries and 500 feet for cultivation without on-site sales; and reducing the buffer from residential district boundaries to 200 feet buffer as proposed. Hearing no further discussion; Mr. Grimshaw asked for a motion.

MOTION: Ms. Friedman moved to make the said amendments as proposed by Mr. Wright and that the Planning Board recommend approval of the 500 foot, 1000 foot and 200 foot buffer as noted in the written description.

SECONDED: Ms. Nist – Discussion: Mr. Kevin Baker asked how they can stop anyone from approaching them, if a facility wants to locate within their daycare facility and wanting to purchase a part of their property to meet that buffer requirement. Mr. Grimshaw explained usually developers would contact the Planning Office first and inquire where they could locate.

At that point, the Town Planner would inform them about the existing daycare facility or a school, or a playground, etc.

VOTE: All in Favor

MOTION: Ms. Nist moved to adjourn meeting

SECONDED: Mr. Menard – Discussion: None

VOTE: All in Favor

Meeting adjourned at 8:30PM

Respectfully submitted:

Barbara Knox

Barbara Knox

Documents included in meeting packet:

- Agenda
- Memo to the Planning Board from Michelle Buck regarding 4/5/2016 Planning Board Meeting
- Comment letter from Quinn Engineering dated March 18th regarding 466 Stafford Street Solar Project
- Response letter from Borrego Solar to Quinn Engineering regarding 466 Stafford Street Solar Project
- Copy of an Annual Site Inspection Protocol regarding Operation & Maintenance and a copy of the Long Term Pollution Prevention Plan on 466 Stafford Street Solar Project
- Draft copy of the Site Plan Approval & Stormwater Permit Order of Conditions for 466 Stafford Street Solar Project
- Draft copy of the Leicester Zoning Bylaw Amendment: Medical Marijuana Treatment Centers
- Summary/Explanation on the Medical Marijuana Bylaw Amendment
- Town of Leicester Zoning and Overlay Districts Map showing approximate area Medical Marijuana Treatment Centers would be allowed
- Copy of Attorney General's approval summary on the Zoning Amendments at the time Medical Marijuana Centers were presented at the May 7, 2013 Annual Town Meeting
- Comment letter received from Kathryn E. Hunt Baker, 141 Clark Street, regarding her concerns with a potential marijuana cultivation and dispensary on Huntoon Highway

Documents submitted at meeting:

- Comment letter from Quinn Engineering dated April 5th, regarding 466 Stafford Street Solar Project
- Copy of Estate Planning & Conservation Seminar announcement poster
- CMRPC Regional Forum for Planning Board Members Meeting Agenda for April 21st