

Town of Leicester Planning Board
Meeting Minutes

MEMBERS PRESENT: Jason Grimshaw, Chair; Debra Friedman, Sharon Nist, Andrew Kularski

ASSOCIATE MEMBER: Robyn Zwicker

MEMBERS ABSENT: Alaa AbuSalah

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

MEETING DATE: **March 3, 2018**

MEETING TIME: 7:00PM

AGENDA:

- 7:00PM Public Hearing, Zoning Bylaw Amendments (continued)
- A. Marijuana Establishments
 - B. Open Space Residential Development (correction of errors)
 - C. Special Permit Granting Authority/Allowed Uses (clarification of confusing language)
- 7:15PM Public Hearing, Major Site Plan Review:
515 Henshaw Street Solar Farm/SPR2018-01 (Applicant: Borrego Solar)
[Note: this hearing will have to be continued to a future date as abutters were not properly notified]
- 7:45PM Public Application:
Minor Amendment to Site Plan Approval, LaFlash Boutilier Solar/SPR2016-03
(Attorney Thomas Bovenzi)
- 8:00PM Approval of Minutes:
 - February 6, 2018
- 8:15PM Town Planner Report/General Discussion:
- A. Submission of Preliminary Subdivision plan
Mayflower & Sterling (Central Land Development Corp)
 - B. Update – Backyard Poultry Committee Applications
 - C. Potential Future Zoning Bylaw Amendments
 - D. Miscellaneous Project Updates
 - E. Board Member Committee Updates

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

Public Hearing, Zoning Bylaw Amendments (continued):

- A. Marijuana Establishments
- B. Open Space Residential Development (correction of errors)
- C. Special Permit Granting Authority/Allowed Uses (clarification of confusing language)

A. Marijuana Establishments

Ms. Buck opened with a PowerPoint review.

Recreational Marijuana Timeline review:

- 11/2016 the Massachusetts Ballot question was approved;
- 7/2017 marijuana became a new Massachusetts law and the Cannabis Control Commission was established;
- 12/2017 draft marijuana regulations were established;
- 3/2018 final marijuana regulations are expected;

- 4/2018 the CCC will start accepting applications; and
- 6/2018 the CCC will start issuing licenses

The proposed amendment includes: 1) definitions; 2) which districts to allow and the permitting required; 3) setbacks and buffers; 4) requirements and standards.

1) Definitions: All the definitions included were done in consistency with State Definitions and some were amended based on recommendations from the Town's Attorney.

2) Districts/Permitting required: Which uses should be allowed in which zoning district and how should each category be regulated There are three categories, 1) Marijuana Retailer, Consumer Sales Only; 2) Marijuana Establishment, Non-Retail; 3) Marijuana Social Consumption Facility. Retail & Non-retail will be allowed by Special Permit in the Business Districts; Social Consumption facilities will be prohibited in all districts.

3) Setbacks and Buffers: This was modified since last meeting, making it a simpler proposal. The buffers are based on use: 500ft buffer for marijuana retailer, consumer sales only and a 200ft buffer for marijuana establishments, non-retail. The buffers are from retail zoning districts, schools, religious facilities, childcare facilities, parks & playgrounds, drug & alcohol treatment facilities and other marijuana establishments. *Zoning maps reviewed showing 500ft & 200ft buffers.*

4) Special Permit Requirements: The Planning Board shall be the Special Permit Granting Authority for all marijuana establishments. Applicants are required to meet all State requirements, as well as meeting security requirements.

Private clubs, existing facilities and limitations are newly added requirements as follows:

- Private clubs are prohibited in every district;
- Conversions of an existing registered medical marijuana dispensary, to an adult use, shall be permitted by-right without special permit;
- Limitations- retail, consumer sales only shall be limited to 1 establishment in the Town Leicester.

Next steps:

- Continue public hearing to March 27th
- Town Meeting vote May 1st

Ms. Buck asked the Board's comments on allowing marijuana facilities by-right in the HB-1 & HB-2 districts, as well as in existing structures for growing facilities. Mr. Grimshaw opened discussion to the public first to hear their concerns.

Mr. Matthew Ball, 39 Winslow Ave. asked if the current marijuana dispensary changes to a retail location, would that be the one establishment limited in Town. Mr. Grimshaw said yes, the Town can limit to equal or greater to 20% of package stores and Leicester will be limited to one.

Ms. Sandy Wilson thanked the Board for implementing all the public concerns and comments made from the last Planning Board meeting.

Mr. Grimshaw opened discussion to the Board where to allow marijuana facilities, by-right or by special permit. He questioned existing structures as opposed to new construction. Ms. Buck explained cultivation facilities would be able to use existing structures by-right and new construction would be by site plan review.

Ms. Friedman felt site plan review would be necessary for facilities moving into existing structures, because if there were concerns about an existing structure, it can be reviewed. For example, how would hours of operation, parking, and lighting be address if allowed by- right? Mr. Grimshaw agreed.

Mr. David Genereux, Town Administrator suggested with existing structures that are not being modified on the exterior and are not making any material changes, could they be allowed by-right, versus, someone doing a complete redo that would require more parking, etc. and they would be allowed by special permit. He felt Town Counsel could assist the Board in that manner.

Ms. Buck explained usually site plan was required when an addition is more than 3,000sf and needed more parking spaces, but site plan review could also be required for this particular use. Mr. Kularski questioned why a change in use would not trigger a site plan review. Ms. Buck said it's not common, although some towns do require site plan review for change of use. Ms. Friedman agreed change of use should require site plan review versus special permit and would be a quicker process that still allows some kind of oversight.

Ms. Buck agreed site plan review can be required and asked for suggestions in which districts. All agreed to include all commercial districts; HB-1, HB-2, I, B, BR-1.

Ms. Buck asked for opinions on conversions by-right and limiting to one recreational facility in the Town of Leicester. Mr. Kularski felt recreational and medical were two separate businesses and two separate finances. The Town has no idea how much more business would be generated with recreational and complications it could create. He expressed concern over allowing conversion by-right.

Mr. Grimshaw recessed the Zoning Amendment public hearing

Public Hearing, Major Site Plan Review

515 Henshaw Street Solar Farm/SPR2018-01 (Applicant: Borrego Solar)

Mr. Grimshaw opened the public hearing. Ms. Buck said due to improper notification to abutters, recommended the hearing be rescheduled after a receipt of a new abutters list and new abutter notification. Hearing no discussion, Mr. Grimshaw asked for a motion to close the public hearing.

MOTION: Ms. Friedman moved to close the public hearing on 515 Henshaw Street Solar Farm

SECONDED: Ms. Nist –Discussion: None – VOTE: All in favor

Mr. Grimshaw reconvened the public hearing on Zoning Bylaw Amendments

Mr. Kularski said Cultivate was one of three medical marijuana facilities in the State that would be looking to convert. He felt there will be a lot more traffic coming from a recreational standpoint, then from a medical standpoint. Allowing conversion by right, would not allow

review on traffic, parking, hours of operation, etc. Even though this is not a residential district, there are residents who live nearby who could be affected.

Ms. Friedman agreed. She questioned what control the Town would have if there was no site plan review. Ms. Buck said the only review would be through a building permit application.

Ms. Friedman felt Cultivate would not lose out financially, because they were already in operation. She said there needs to be some kind of review because this will be a different business, with different clientele. Cultivate has been a good business that has worked well with the Town, but this use is different.

Mr. Harry Brooks understood why neighbors should have a say, but how can the Town tell Cultivate what to do prior to opening if no one knows what the impact will be. Ms. Buck said the Board could require the applicant to submit what they would consider their customer volume and how they intended to address parking. Based on that, the Board can add conditions requiring certain amount of parking spaces. For example, if 25 spaces were proposed and right after opening, they find that was not sufficient, they would be required to propose a new parking plan to the Planning Board.

Ms. Friedman added another concern was hours of operation and part of a site plan review was being able to condition operating hours. Mr. Kularski said medical facilities have scheduled times for people to go and recreational would be like a package store, people can go at any time. Ms. Friedman felt requiring a review would not put a business in the position where they would lose a huge amount of revenue, because they were already ahead of everyone else.

Ms. Wilson explained Cultivate's concern was what would happen between the time from when they converted to recreational, to when there will be competition. They felt it would draw away some of their customers. She asked if the new Parking Bylaw would solve the concern, because it allows finding satellite-parking areas and won't force them into buying additional land. Ms. Friedman said there was nothing on that side of the road. Ms. Buck noted satellite parking was only allowed in the Business and Central Business Districts. She pointed out Cultivate owned additional land in the back of the building where they could potentially expand parking.

Mr. Brooks said right now Cultivate has enough parking for 50 and the Board felt additional parking would be needed when converted to recreational. Ms. Friedman said the Board would look at the increase in the number of parking spots, because they would probably be increasing the number of employees as well.

Mr. Brian Green noted Mr. Sam Barber, owner of Cultivate, just arrived and asked to allow Mr. Barber to answer some concerns discussed. Mr. Grimshaw agreed.

Mr. Green noted the Board was discussing hours of operation and parking. Mr. Barber said as of today, they served 70 patients. At no point were all the parking spaces used and there has been an increase in business. The reviews noted online say their dispensary has the most parking available in the State.

Mr. Kularski asked if clients had scheduled appointments or came any time throughout the day. Mr. Barber said clients come any time throughout the day and checkout time is usually around 2 to 3 minutes, the maximum is 20 minutes for people who have questions.

Mr. Kularski asked if the average number of cliental was 70 a day. Mr. Barber said 70 was on the higher side, the average is around 50. Mr. Kularski asked how much they expected business would increase based on recreational sales. Mr. Barber said there maybe 2 to 3 time increase, but he really wasn't sure how quickly the market will move at the start. One of the biggest things available with this new market was the P.O.S. terminals that allow for faster checkout. It will be like picking up prescriptions at Walmart.

Mr. Green asked about hours of operation. Mr. Barber said they don't plan to change their operating hours right now. The hours are 11am to 7pm, 7 days a week. However, they could potentially change to opening earlier, but they will go according to what the Town wants.

Mr. Kularski asked the number of additional employees to be hired when talking about future buildout converting to recreational. Mr. Barber said possibly around 10 more employees.

Ms. Friedman asked the total number of employees, including the additional after converting. Mr. Barber said 30 with 5 more and additional employees as numbers go up.

Ms. Friedman asked the number of parking spots currently available. Mr. Barber wasn't sure of the exact number, but knew it was 2 more than required. The facility is opened 7 days a week, with staggered shifts, so they don't even come close to using all the parking. Ms. Friedman noted the business could see 3 times the increase in the amount of business and the average currently is 50 a day, so it could go up to 150 patients a day. Mr. Barber agreed.

Mr. Green asked Mr. Barber if Cultivate would be able to expand the parking lot now without any issues. Mr. Barber said one option would be to buy the lot next door, as well as putting some spots in back along the fence area. Nevertheless, with deliveries and how quick turnaround was with the new market, they would be able to add some additional spots.

Mr. Brooks thanked the Planning Board for their time and effort put into working on the bylaw amendment.

Ms. Friedman asked if a delivery service was to be offered and if so, should something be in the amendment about it. Mr. Barber said it would be set up as how regular medical deliveries are done.

Mr. Brooks asked the process taken with deliveries. Mr. Barber said the delivery car will be equipped with a tracking device and that car has to be in communications at all times with a monitoring center at their facility. If they happen to lose the signal, authorities are immediately notified. They are required to have a live connection with the State system. Two people in the car at all time, they have to be accounted for at all time and has to be signed off by two people.

Mr. Grimshaw asked for final review before continuing. Ms. Buck said the only thing changing, based on tonight's discussion, to allow non-retail by-right with site plan review and everything would remain the same. The only thing remaining was whether or not to strike the language on conversion.

Mr. Genereux felt site plan review for both new and existing buildings would cover all concerns and be a quick and easy process.

The Board decided that they would re-visit the conversion issue at the next hearing date. Mr. Grimshaw asked for any further discussion or questions, hearing none, asked for a motion to continue.

MOTION: Ms. Friedman moved to continue the public hearing on the Zoning Bylaw Amendments to March 27, 2018 at 7:00PM

SECONDED: Ms. Nist – Discussion: None – VOTE: All in Favor

B. Open Space Residential Development (corrective of errors)

MOTION: Ms. Friedman moved to recommend approval on Open Space Residential Development correction of minor errors

SECONDED: Ms. Nist – Discussion: None – VOTE: All in Favor

C. Special Permit Granting Authority/Allowed Uses (clarification of confusing language)

MOTION: Ms. Friedman moved to approve the Special Permit Granting Authority/Allowed Uses clarification on confusing language

SECONDED: Ms. Nist – Discussion: None – VOTE: All in Favor

Public Application

Minor Amendment to Site Plan Approval, LaFlash Boutilier Solar/SPR2016-03 (Attorney Thomas Bovenzi)

Ms. Buck explained a letter received from Attorney Bovenzi, representing the applicant ZPT Energy Solutions. They were asking the Planning Board to amend the Site Plan Review Decision to eliminate the requirement for the gate. Attorney Wayne LeBlanc was presents for Nick Casello, abutting property owner.

She explained the LaFlash Boutilier solar applicant submitted a decommissioning bond and a short-term security bond, to cover hydroseeding and installation of the gate. The project has not received a sign off because, there were outstanding issues remaining with the riprap at the entrance gate.

One of the concerns of the Board was, if the second solar farm never happened, would someone try to use that as legal road frontage for additional house lots. Attorney Bovenzi's argument is that it's not known what will happen in the future.

Attorney Wayne LeBlanc said they were waiting to hear on the impact study for the second solar farm from National Grid. That was part of the process in making a determination for Mr. Casello's second solar project located on his property. There was also additional research

needed in relation to the wetlands located there. They anticipated, through agreements they have, the second solar project will be moving forward in late October or early November. He was also waiting to hear from Attorney Bovenzi on exactly where their process stood, but did anticipate the second project moving forward, at some point, with the Planning Board.

Mr. Bovenzi's letter also indicated their intent was there would be two projects and would work out security or whatever was necessary for both projects. Until then, they were looking at this as an abutter to that roadway, to not have a gate, because it would be contrary to the condition that states; "Provided such a gate does not interfere with other parties who have rights to Boutilier Road."

Ms. Buck explained when the Board put the requirement in for a gate; it was a last minute requirement because the applicant didn't want to remove the pavement. The Board has a couple of options, acting on the request of the applicant or delaying action further on the gate requirement.

Ms. Friedman was concerned having an existing road that was never approved or had any inspections done and the Board was very clear that they wanted the road removed. When the applicant didn't want to remove the road, the Board negotiated the gate. As far as she was concerned, it was one or the other.

Mr. Ernie Mello, ZPT Energy Solutions asked the reason the Board required either remove the road or install the gate. Ms. Buck explained there's a long standing issue on that road as to its adequacy for residential home construction. There was a subdivision plan and a road, partially and poorly constructed, that failed inspections and then the developer abandoned the project. The Board's concern was how to make it only available for solar development, unless further improvements were made to the road.

Mr. Mello said ZPT received a Certificate of Compliance from the Conservation Commission that closed out that permit and terminated the subdivision. Any additional development that occurred down Boutilier Road would be subject to additional permitting from the Planning Board. Ms. Buck explained the Board was trying to avoid the Town having to fight a legal battle in court because there was pavement there and someone wants to build a home.

Mr. Mello confirmed that ZPT was currently in the process of developing plans for the another solar project on Boutilier Road to be located on Mr. Casello's property.

MOTION: Ms. Friedman moved to delay any action on requirement of gate on Boutilier Road until September 4, 2018.

SECONDED: Mr. Kularski – Discussion: None – VOTE: 3 in Favor / 1 abstained (Ms. Nist)

Approval of Minutes

2/6/2018

MOTION: Ms. Nist moved to approve minutes of February 6, 2018

SECONDED: Mr. Kularski – Discussion: None – VOTE: All in Favor

Town Planner Report

A. Submission of Preliminary Subdivision Plan; Mayflower & Sterling (Central Land Development Corp)

Applicant is not ready to submit. Ms. Sandy Wilson & Mr. Brian Green asked for a brief overview. Ms. Buck didn't know the particulars, but understood there might be two cul-de-sacs, one coming off Mayflower Circle and one being an extension of Sterling Street. The developer was also considering doing an Open Space Residential Development plan.

B. Update – Backyard Poultry Committee Applications

Four applications received; applicants will be invited to attend April 3rd meeting for a short interview.

C. Potential future Zoning Bylaw Amendments

A master list included in the meeting packet was for review and to schedule a future meeting for discussion. All agreed to schedule discussion for the April 3rd meeting

D. Miscellaneous Projects Updates

No updates at this time

E. Board Member Committee Updates

Ms. Nist reported Capital Improvement Committee have several requests, but most outstanding were the Town Highway Dept. requesting equipment upgrade & building repair and Police Dept. requesting equipment upgrade and licensing.

Hearing no further questions or concerns, Mr. Grimshaw asked for a motion to adjourn.

MOTION: Ms. Nist moved to adjourn meeting

SECONDED: Ms. Friedman – Discussion: None – VOTE: All in Favor

Meeting adjourned at 8:35PM

Respectfully submitted:

Barbara Knox

Barbara Knox

Documents included in meeting packet:

- Agenda
- Memo from Michelle Buck, Town Planner to Planning Board regarding March 6, 2018 Planning Board Meeting
- Copy of Draft Zoning Bylaw Amendments
- Public Hearing Notice for Borrego Solar, 515 Henshaw Street
- Copy of letter from Attorney Bovenzi regarding LaFlash Boutilier Solar
- Copy of plan of the Town of Leicester dated 1831
- Copy of 4 applications for Backyard Poultry Sub-Committee applications
- Copy of February 6, 2018 Planning Board Minutes
- Copy of letter from Richard Johnston, member of the Zoning Board requesting assistance in proposing a zoning change around lake properties
- Copy of maps showing the three bodies of water affected
- Copy of Potential Zoning Bylaw Amendments

Documents submitted at meeting:

- None