

**Town of Leicester Planning Board  
Meeting Minutes  
February 2, 2021**

*[Note: This meeting was held remotely using GoToMeeting]*

**Members Present:** Jason Grimshaw (Chair), Jaymi-Lyn Souza, Sharon Nist, Debra Friedman, Andrew Kularski

**Members Absent:** James Reinke (Associate)

**In Attendance:** Michelle Buck, Town Planner; Brooke Hammond, Department Assistant

1. Zoning Bylaw Amendments (General Discussion)
2. Approval of Minutes
  - January 19, 2021
3. Town Planner Report/General Discussion
  - A. Miscellaneous Project Updates
  - B. Board Member Committee Updates
  - C. Upcoming Meeting Dates
4. Adjourn

Mr. Grimshaw called the meeting to order at 7:02 pm.

**1. Zoning Bylaw Amendments**

Ms. Buck provided an overview of each proposed amendment.

**5.6 - Greenville Village Neighborhood Business District Amendments**

**5.6.02.2**

Added don't need to submit a site plan review if using an existing building unless they need a special permit.

**5.6.03.1**

This section allows all uses listed in Section 3.2.0.3, which includes a wide range of business uses. Some of these may not be wanted in the NB district, so this section was modified to reference a section that prohibits certain uses. It also prohibits any use that's prohibited in all other districts.

**5.6.03.4**

Adding language to allow flexibility in existing commercial structures. Commercial structures in existence prior to the creation of the NB district (ATM 5/6/2002, Article 34) are exempt from the 6000 ft<sup>2</sup> size limitations, except that any expansions shall require a special permit.

**5.6.03.5**

New section allowing additional uses allowed by special permit in commercial structures in existence prior to the creation of the NB district (ATM 5/6/2002, Article 34): makerspaces, outdoor storage and certain parking of commercial vehicles, and rental self-storage facilities.

#### **5.6.04.4**

Prohibiting rental self-storage facilities indoor or outdoor.

#### **5.6.05.1**

Parking and Loading: consider deleting all language that is duplicated in the Board's Parking Regulations. Subection D. modified so that the only new parking areas have to be located to the the side or rear of the structure.

#### **5.6.05.2**

A: "It's" corrected to "its"

C: Delete section. The whole district is only 300-400' wide, 50' buffer is unnecessary.

K Add "The landscaped buffer requirements in paragraphs A & B shall not apply to reuse of existing structures and associated parking areas. The Planning Board may require a landscape buffer for uses requiring a special permit"

#### **5.6.06.01**

A: Modified second sentence for clarity. [as revised: No building, use or occupancy permits for any use requiring a special permit shall be issued...].

B: Change "Rules & Regulations for Special Permit Applications" to "Special Permit Regulations"

#### **5.6.06.2**

G: Add "where applicable" to end of sentence.

Mr. Grimshaw asks if there are any questions. No discussion from the Board.

Ms. Buck says was previously discussed about possibly waiting until the Board met in person before making the zoning amendments. Ms. Buck also asks if notice should be sent to NB district abutters before the public hearing?

Mr. Kularski says the Board should proceed with the amendments as soon as possible.

Ms. Friedman says it is worth it to notify the 100 abutting households as a courtesy due to COVID-19, but in the future the Board is not required to notify them directly of the virtual meetings.

Ms. Buck says when a notice was sent in 2020 it was sent to all households within 1,000 ft of NB district. She asks the Board if the same people should be notified this year. The Board says yes.

Ms. Buck says the zoning amendment Public Hearing will be held March 2.

### **Rental Storage and Related Issues Amendments**

#### **1.3, Definitions**

Insert the following definition: "RENTAL SELF-STORAGE FACILITY – A building or buildings consisting of individual self-contained units that are leased for the storage of vehicles or business and household goods. Storage of hazardous materials or substances, hazardous

waste, gas, oil or any substances or materials which pose a threat to human health or safety or a threat to the environment is prohibited. No activity other than storage shall occur in such facilities. Such facilities may have associated outdoor storage by special permit in certain Zoning Districts (See Sections 3.2.03. and 5.2.18).”

### 3.2.03

Amend the use table as shown below:

[Note: changes are underlined]

<b>3.2.03 BUSINESS</b>		<b>SA</b>	<b>R1</b>	<b>R2</b>	<b>B</b>	<b>CB</b>	<b>I</b>	<b>BI-A</b>	<b>HB-1</b>
13a.	Rental Enclosed Self-Storage Facility (outdoor storage prohibited) <u>Rental Self-Storage Facility with no outdoor storage</u> (Special Permits issued by Planning Board)	N	N	N	SP	SP	SP	SP	<u>Y</u>
13b.	<u>Rental Self-Storage Facility with outdoor storage (Special Permits issued by the Planning Board)</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>SP</u>	<u>N</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>
26.	Land and water recreational vehicle (including boats) sales, rental, service, and storage yards. <sup>3</sup>	N	N	N	SP	N	SP	SP	SP

<sup>3</sup>. Land and water recreational vehicle storage yards shall meet the requirements for Rental Self-Storage Facility with outdoor storage.

### 3.30 – Business Residential 1 (BR-1) Zone

aa: Amend to say “Rental Self-Storage Facilities (with or without outdoor storage) by special permit from the Planning Board”

### 3.32 – Residential Industrial Business (RIB) Zone

h: Amend to say “Rental Self-Storage Facilities (with or without outdoor storage) by special permit from the Planning Board.”

### 3.2.08 – Parking of Commercial Vehicles

B 1 Add HB-1 as a zone where outdoor storage of commercial vehicles as a primary use is allowed by right.

B 2: Fix typo. Per mitted to permitted.

B 4: Change “Zoning Board of Appeals” to “Special Permit Granting Authority”

### New Section 5.18 – Outdoor Storage

#### **5.18.01- Rental Self-Storage Facility with Outdoor Storage**

All Rental Self-Storage Facilities with outdoor storage shall be required to meet the following standards:

- A. Outdoor storage areas shall be screened from view from roadways and abutting property owners by an opaque fence at least 6 feet in height.
- B. Storage areas shall not be located in required setbacks from property lines
- C. Outdoor storage areas shall not impede emergency access to the site or structures on the site.
- D. Appropriate provisions shall be made to ensure vehicle fuel or other contaminants are appropriately controlled and don't infiltrate the ground.
- E. No commercial activity other than storage shall occur in indoor or outdoor areas, including vehicle maintenance, fueling, or repair work.

Ms. Buck asks the Board if there is anything they would like to see explicitly prohibited from being stored outside. Ms. Nist asks if large campers could be prohibited from outdoor storage, as she is worried about these outdoor storage sites looking unkempt. Ms. Buck says most people prefer outdoor storage for campers. Ms. Friedman also expresses concern about potential environmental contamination from vehicle fluids. There is a discussion among the Board members suggesting different options for keeping outdoor storage facilities uncluttered such as adding language to set a limit on the number of years a vehicle can be stored and/or keeping up with car maintenance as a condition of outdoor storage. Mr. Grimshaw says he would like to include language that will prevent storage yards from looking unorganized. Ms. Buck says vehicle salvage yards are prohibited in all districts, and she will look into options to keep outdoor storage from looking like salvage yards.

#### **5.18.01 - Other Outdoor Storage**

- A. For parking of commercial vehicles, see Section 3.2.08 (Parking of Commercial Vehicles)
- B. Storage of large equipment or storage containers outside where accessory to a lawfully permitted commercial use on the same site is allowed by right in HB-1, HB-2, B, and I, and by special permit from the Planning Board in CB, RIB, BI-A, and BR-1. Emergency access to structures shall be maintained at all times. Parking sufficient for the uses on site in conformance with the the Planning Board's Parking Regulations must remain unobstructed.

#### **BR-1 & RIB District Amendments**

##### **3.30 – Business Residential-1 (BR-1) Zone**

Change labels on uses list from a-pp to numbers 1-42

##### **3.32 – Residential Industrial Business (RIB) Zone**

Renumbering and re-organization of subsections to make clearer. Change uses in subsection C. from a-p to 1-15.

## **HB-1 District Amendments**

### **5.5.02 - Site Development Standards**

Change to “The following site development standards shall apply to all new construction of non-residential uses, expansions of more than 25% of the existing non-residential uses, and increases of more than 10 parking spaces.”

#### **5.5.02.1 – Parking, Loading, and Unloading requirements**

Change “Parking and loading and unloading space” to “parking and loading requirements”

Change “Rules & Regulations for Special Permit Applications” to “Special Permit Regulations”,

Note: These amendments are to make the HB1 district more consistent with other commercial districts.

## **Potential Marijuana Amendments**

Ms. Buck says there are two issues under consideration: delivery operators and the cap on the number of retail facilities in Leicester. In previous meetings the Board was in favor of increasing the number of retail marijuana establishments from 1 to 2.

New definitions including ‘marijuana courier’ which is “an entity licensed to deliver Finished Marijuana Products ... but is not authorized to sell Marijuana or Marijuana Products directly to Consumers” and ‘marijuana delivery operator’ which is defined as “an entity licensed to purchase at Wholesale and Warehouse Finished Marijuana Products ... but is not authorized to Repackage Marijuana or Marijuana Products or operate a storefront under this license.”

Ms. Buck explains a courier is similar to an Uber Eats driver, where they pick up the finished product from the retailer and deliver it to the consumer, but the driver is not employed by the marijuana retailer and cannot sell product to the consumer. Transactions take place remotely only between the retailer and consumer, the courier is the middleman. A delivery operator is similar to a wholesale operation and can purchase and store product from multiple retailers and sell to customers of their own. Couriers can already deliver to residents in Leicester.

Ms. Buck asks if The Board wants to require a Special Permit for these uses; their decision will affect the amendments. Under Section 3.2.03.20 “except courier or delivery operator” could be added to ‘Marijuana Establishments, Non-Retail’ Use. Marijuana Courier and Marijuana Delivery Operator would also be added to the use table. Social consumption facilities will remain prohibited uses.

Ms. Friedman asks if the courier’s vehicles would be private or company owned. Ms. Nist thinks the cars would have to be company owned. Ms. Buck says the vehicles must be registered as commercial vehicles but will be privately owned.

Ms. Souza says it’s a good idea to allow businesses the option to have couriers and delivery operators, and the special permits would come to the Board for approval beforehand. Ms. Souza states there are enough regulations in place currently to resolve any issues that may arise by allowing this use.

Ms. Friedman asks if there would be a limit to the number of couriers in town. Ms. Buck says there is nothing currently drafted to regulate this.

Ms. Friedman asks Ms. Buck to confirm that the town is limiting retail locations to one or two, but there would not be a cap on the number of couriers operating in town. Ms. Buck confirms that that is how the bylaw is written right now.

Mr. Kularski asks if couriers need to have a physical business location. Ms. Buck says couriers would just pick up product(s) and deliver it to customers. Mr. Kularski asks how this would be controlled by the Planning Board.

Mr. Kularski states he does not think couriers fall under the jurisdiction of the Planning Board because they are not associated with any specific property or business. The Board agrees there isn't a way to monitor courier activity, nor is it a Planning Board concern.

Ms. Buck says the marijuana delivery operators could have storage facilities in town and deliver their own product which concerns the Planning Board. The couriers are freelance drivers, can work for multiple retailers, and only operate when an order is placed with a retailer that needs to be delivered to a consumer. Delivery operators who have stock of their own can sell marijuana products.

Ms. Buck states there is no examples of similar bylaws in other nearby town bylaws. Ms. Buck's draft has marijuana delivery operators listed as needing a special permit in the CB, I, and BI-A, and by right in HB-1 and HB-2. Couriers are drafted to be allowed in all districts.

Mr. Kularski states courier should not be listed in the by-law at all. Ms. Nist and Ms. Friedman agree. Ms. Friedman mentions that couriers can currently bring marijuana from other towns anyways, but that any issues that arise with couriers can be addressed in the future as needed.

Ms. Buck says the Cannabis Control Commission would regulate courier drivers, but she will have to tweak the language in other sections of the bylaw to allow marijuana delivery in all districts. Ms. Buck says courier will be deleted from the draft amendments, and asks the Board if delivery operator should remain requiring a special permit. Mr. Kularski says drivers tied to a retail establishment in Leicester should remain in the bylaws. Ms. Nist says that by definition a delivery operator is tied to a specific location, so she agrees they should stay in the bylaws. Mr. Grimshaw states there is always the option of reviewing it in more detail in the future.

Ms. Buck says she will add marijuana delivery operators to be allowed by special permit in BR-1 and RIB districts. Ms. Buck asks the Board if they agree with increasing the number of allowed marijuana retailers in town from one to two.

Mr. Kularski says the number of retailers is based on population. The number of retail locations can go higher if approved by the Board but cannot be decreased. The Board has no objections to increasing the limit to two.

Ms. Buck says she will prepare the changes and set a hearing for March 2, and the amendments need to be submitted to Select Board by March 18.

## **2. Approval of Minutes – January 19, 2021**

Motion: Ms. Nist makes a motion to approve the minutes from January 19, 2021.

Second: Ms. Friedman

Discussion: Mr. Kularski abstains because he was not at the January 19 meeting.

Roll-call Vote: (4-1-0)

### **3. Town Planner Report/General Discussion**

#### **A. Miscellaneous Project Updates**

*Hank's Marine:* Ms. Buck reminds the Board that the Public Hearing for Hanks Marine Special Permit will be held on February 16, 2021. Ms. Buck also is expecting a new Special Permit application for an outdoor marijuana cultivation farm.

*1323 Main St Complaint:* The Conservation Commission will be following up on a complaint at 1323 Main Street (Classic Automotive). The Zoning Board of Appeals has issued 4 permits at this property that have conditions related to hours of operation, lighting and signs; the property owner may be violating some of these conditions.

*15 Water St Complaint:* Ms. Buck placed a call to operator of landscaping company, and he's now aware of the noise concerns. A letter will go out after getting clarification from the water district on their concerns.

#### **B. Board Member Committee Updates**

Ms. Nist states the Capital Improvement Planning Committee meeting will be held Feb. 3, 2021.

Mr. Grimshaw states there was an Economic Development Committee meeting the previous week, but there was nothing to report to the Planning Board.

#### **C. Upcoming Meeting Dates**

February 16, 2021 meeting for a public hearing on Hanks Marine Special Permit.

March 2, 2021 meeting for a public hearing on the zoning amendments.

### **4. Adjourn**

Motion: Ms. Nist motions to adjourn the meeting.

Second: Ms. Souza

Discussion: None

Roll-call Vote: (5-0-0)

Meeting was adjourned at 8:09 PM.

#### **Documents submitted at meeting:**

- Memo From Town Planner
- Zoning Bylaw Amendment Drafts
  - NB District Amendments
  - Outside Storage
  - Housekeeping Amendments (BR-1, RIB, HB-1)
  - Marijuana Amendments