

**Town of Leicester Planning Board**  
Meeting Minutes

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

ASSOCIATE MEMBER: Robyn Zwicker

MEMBERS ABSENT:

IN ATTENDANCE: Michelle Buck, Town Planner; Barbara Knox, Board Secretary; Harry Brooks, Board of Selectmen

MEETING DATE: **January 2, 2018**

MEETING TIME: 7:00PM

AGENDA:

7:00PM	General Discussion: Potential Zoning Bylaw Amendments (Poultry)
8:00PM	Application: ANR plan, Green Street (Kurt Gursky)
8:15PM	Approval of Minutes <ul style="list-style-type: none"><li>• 12/5/2017</li></ul>
7:30PM	Town Planner Report/General Discussion: <ul style="list-style-type: none"><li>A. Miscellaneous Project Updates</li><li>B. Future Zoning Amendments</li></ul>

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

**General Discussion:**

Potential Zoning Bylaw Amendments (Poultry)

Mr. Grimshaw gave instructions on general discussion procedures.

Ms. Buck gave a brief presentation on the background information with the current bylaw and proposed bylaw amendment. In the current Bylaw, Section 3.2.01 Agriculture #2, was for raising of livestock for domestic use. In the Town of Leicester, the keeping of chicken or poultry requires a Special Permit through the Zoning Board of Appeals in almost every single zoning district. In Residential-1 (R1) and Residential-Industrial-Business (RIB), chickens or poultry are only allowed if part of an exempt agricultural use.

She explained that the Planning Board attempted to make it easier to keep poultry, in particular chickens. The amendment proposed in the fall was intended to make it easier to keep a small number of poultry without having to get a special permit. The proposal also would have amended the definitions to help clarify the meaning of poultry/livestock and by adding a new definition on backyard poultry that included up to six female birds. Language was included related to exempt agricultural uses, to make it consistent with current Massachusetts law. Minimum lot sizes for livestock and backyard poultry was also included.

The second page of the handout shows detail on what actually was proposed at Town Meeting. It gives an overview on allowing backyard poultry, by right in most districts, with no special permit required. It would allow the keeping up to 6 common domestic female turkeys, ducks or chickens, no roosters or other male poultry, per lot accessory to a one-family or two-family

dwelling for personal consumption and enjoyment. The keeping of more than six birds, or other types of livestock would revert to what is currently required, having to go to the ZBA for a special permit.

The last page of the handout includes detailed information on a minimum lot size of 40,000 square feet for livestock and 10,000 square feet for backyard poultry, as well as noting that agricultural uses are exempt under State Law.

There's an overlapping area with regulations related to the keeping of chickens and poultry with the Board of Health Regulations. Leicester currently has regulations on the books that aren't actively enforced. If there was a comprehensive rewrite in the Zoning Bylaw, Board of Health regulations should be addressed at the same time. There were members of the Central Mass Regional Public Health Alliance in attendance to answer questions concerning Board of Health regulations.

At this point, Mr. Grimshaw opened discussion to the public.

Ms. Heidi Cooper, 878 Stafford Street, said as opposed to presenting this by zoning districts, because there are small lots in some of the same districts that have large lots, was to present something based on acreage. She reviewed the information from the Board of Health regulations for poultry. It also requires a plan to show where the actual coop would be placed, to make sure it was not placed near the neighbor's house. She agreed there should not be a "free-for-all," but felt keeping of chickens should be permitted no matter what zoning district, on lots under an acre. She felt people who have 2 or more acres should be able to have any number of birds without having to get a special permit.

Jerome Edgington, 393 Henshaw Street, asked what was involved the current permitting process for someone who wanted to go that route. Ms. Buck explained the special permit process was through the Zoning Board of Appeals. An application is filed at the Town Clerk's Office and there's a \$175 application fee. After the application is filed, a public hearing is scheduled. A registered plan of the site is also required, showing where the coop will be located on the lot and the number of birds being requested. The hearing gets advertised in the local newspaper and abutters are notified by Certified Mail. At the hearing, the applicant will have the opportunity to describe his/her proposal. Abutters in attendance will also have the opportunity to voice their opinion and/or concerns. The Zoning Board typically votes on the same night.

Mr. Joseph Richardson, 336 River Street, asked how many permits had been requested through the decades for poultry. Ms. Buck said approximately 10 to 15 applications. Mr. Richardson said that number did not come close to the number of people who own chickens in Town. On his street alone, there were 6 people who had chickens and do not have a special permit. He said looking at the zoning breakdown in the Bylaws, Suburban Agriculture was not clearly defined. When he bought his home in 2011, part of the reason he chose his home was because it was in Suburban Agriculture. He couldn't find the definition in the local Bylaws, so he called the State Department of Revenue. They said Suburban Agriculture was an old term that wasn't used anymore and was used more for rural residential, although some lots were big enough to have

agricultural activities and animals, etc. He felt that was an issue because that explanation was missing from the local Bylaw.

Mr. Richardson noted that he has periodic animal inspections done by the Animal Control Officer because of the number he currently owns. He has 15 chickens, 3 turkeys and 5 waterfowl and feeds his family with what they raise. At one time, he had up to 75 chickens, 7 ducks and 15 turkeys. Limiting the number to six by-right would limit his ability to feed his family. He was concerned having to need a special permit for over six. He agreed with Ms. Cooper putting a number of poultry with acreage. No one wants to see ¼ of an acre with 75 birds, because this also involves being good citizens and working with your neighbor. There needs to be that relationship with the neighbor on what was appropriate. He felt the authority should more appropriately rest with the Health Department, rather than the Zoning Board of Appeals.

Mr. Richardson said there were many people who had backyard poultry, small hobby farms, or homesteads, and besides Diana Provencher's Farm, no one else had turkeys beside himself. Turkey hatcheries require the purchase of large number of birds (some as high as a minimum of 25). In order for him to meet minimum and have no more than 6, he'd need to either give them away or drop them off at random spots, which would create a bigger problem. He also hatched and produced a lot of his own birds and not having any males birds makes it impossible for him to do that. There were many things in the fall amendment that would handicapped his ability to do what he does. He understood changes could be presented at future Town Meetings and the review done with other communities would help make an amendment work. In his opinion, there should have been a sub-committee that brought everyone to the table, residents like himself, who have a homestead to raise animals and who live in the agricultural zone. It would be better to have everyone at the table and not look to other communities to tell us how to run our community, but to develop our own plan that serves us and comes from us.

Ms. Friedman asked Mr. Richardson what he felt would be adequate acreage for 75 chickens. Mr. Richardson said that would depend on what the person was doing. He had 75 birds, but they weren't running around for egg production. Fifty of those birds were a minimum purchase for meat and that doesn't require the same amount of space that egg layers have.

Ms. Friedman asked if the law changed, wouldn't more space be required, as far as free range chickens. Mr. Richardson said no, because they have the ability to move and are not enclosed in a pen. The birds have the required minimum space, and were only alive for 8-weeks. He asked whether the Board was talking about birds that were alive for a year or birds that are processed for consumption within 8-weeks.

Ms. Friedman asked if 75 birds supplied his household for an entire year. Mr. Richardson said yes. He said the average person consumes 52 pounds of chicken a year and for a family of five, that's 250 pounds of meat. If the average bird weighs 5 ½ pounds, that equals 50 birds a year for a family of 5.

Ms. Friedman asked if the chickens were for personal consumption or if he sold them. Mr. Richardson said he did not sell his chickens for meat consumption, and didn't process the birds

himself. He had little over an acre that he operates on and felt a better amendment could be put together over time, rather than rushing something through, then trying to fix it later on. He suggested a subcommittee be formed that would bring everyone to the table, including objective input, because that was also needed. There were a lot more people, more than the 6 he mentioned on his road, who own chickens and if we want to develop it right, everyone needs to be at the table.

He spoke on a memo from the State that outlines acreage and what was needed to be agricultural exempt. It was under the Small Lot Farm Definition, and someone who lives in the agricultural zone, doing agricultural activities, qualify for certain exemptions. *Information could be found under Mass.gov/energy environmental affairs/agricultural law memos/10-4 small lot farming; also information found in Chapter 40A Section 3.*

Mr. Kularski asked if meat chickens were alive for a total of 8 weeks, from time of purchase, to maturity. Mr. Richardson said generally yes, but that would depend on what the end goal was and the breed of chicken. Certain breeds die sooner than others die; therefore, need to be processed earlier. Breeds that are bought for egg laying, rather than meat, live slightly longer, around 15 weeks. Mr. Kularski asked about the noise level of meat chickens. Mr. Richardson said meat chickens aren't as vocal as egg laying chickens.

Ms. Sue Sears, 336 River Street explained the concern with the noise and having roosters. There are at least 6 people on River Street who have chickens and several have roosters. A laying hen, at their loudest, is 60 to 70 decibels, which is equal to a normal tone of a human conversation. The noise level of a rooster is 90 decibels, which is equal to a dog barking.

She said noise concerns should be tied into how big someone's property was. The Organic Farming group had a printout on what other Towns allowed and what required a permit. In zones comparable to Leicester's SA zone, many Towns didn't have requirements, and had information available on the front page of their websites. She agreed the number of birds should be tied in with the size of the lot. Other than roosters, most communities do not limit the number of male poultry; roosters do require a special permit and all poultry was regulated through the local Board of Health. She submitted copies of other Town's poultry regulations for the Board's review.

Mr. Kularski said it's noted in the other Town's regulations that it still requires a special permit for chickens, except where there was more than 5 acres.

Mr. Harry Brooks asked if there was a number on how many chickens were allowed per lot size. Ms. Sears said most Town don't give a number. Mr. Brooks asked what the lot size had to do with the number of chickens. Ms. Sears said it went along with what Ms. Cooper mentioned earlier, the SA zone having free range to do this kind of thing, because SA was the Town's agricultural zone. However, there were some very small lots in SA that could not support a large number of poultry, she felt a limit per lot size could be the solution.

Ms. Patricia Dykas, Animal Control Officer suggested looking at a flat square footage per animal and use what the USDA recommends. The USDA standard was 116-square inches per commercial bird and not on lot size.

Mr. Kularski asked was 116 square inches per bird the coop size. Ms. Cooper said that's the size of the cage. Ms. Dykas suggested that figure could also be used to calculate open space per bird. She asked the Board for clarification on the current Bylaw, Section 3.2.01. She asked who determined someone being a farm, or was it based on Chapter 61A, because the current Bylaw did not state that farms exempt from agricultural permitting.

Ms. Buck said the Zoning Enforcement Officer would determine someone being a farm and until recently, the Town had not received many requests for new farms. Also, there is a footnote in the Bylaw beneath the agriculture categories states, "The use of land for the primary purpose of agriculture, horticulture, floriculture or viticulture as described under MGL Ch40A, Section 3 on parcels over 5 acres is permitted." She explained the amendment proposed in the fall, would have updated the current footnote to reflect the change in the State law. If a property owner qualified for the exemption under State Law, they would not require a special permit.

Ms. Cooper said at her farm, they have approximately 150 birds between two coops and people always ask where the chickens were, because they do not make noise. Through her research, most communities go by Board of Health regulations and not Zoning.

Mr. Brooks asked if the representative from Worcester Board of Health Alliance could speak on the issue. Mr. Koby Oareh Ansah, WDPH/CMRPHA explained that the Public Health Alliance assists homeowners on the care of owning poultry, meeting the zoning setbacks and also assists Towns in updating their Board of Health regulations. He said there were many crossovers between Board of Health and Zoning laws and rooster complaints can be a Board of Health issue, but it's also a nuisance issue.

Ms. Dykas asked how the Board of Health interacts with the public on making them aware of bird diseases. Mr. Ansah explained the Board of Health not having the expertise with diseased birds, but there were specialists on staff that would take over on that.

Mr. Zwicker asked what the Board of Health recommendations for raising healthy chickens were. The USDA recommended 116-inches for a commercial bird, was there a recommended size for a noncommercial birds. Mr. Ansah didn't know that answer, but could look into it. He noted each Town having different standards. Ms. Karyn Clark, Director WDPH/CMRPHA said the public health department would need to do more research on that and did not have the expertise in this area in terms of how many square inches per bird to recommend. [Boards of Health regulate the health of people, not animals.]

Mr. Brooks asked if the Board would be agreeable on temporarily waiving the special permit \$175 filing fee in order to allow everyone to come into compliance.

Ms. AbuSalah asked how long a special permit was valid. Ms. Buck explained that special permits don't expire; they are tied to the use and the parcel.

Ms. Claire Carter, 209 Rawson Street, moved to Leicester from Los Angeles, California because they wanted to be part of a community that had local agriculture. In LA, they were allowed up to 8 chickens on a postage stamp size lot. The sense she was getting from this meeting was chickens being a nuisance, but she felt it was no different from owning and caring for a dog.

Ms. Dawn Marttila asked how many Right to Farm farms existed in Leicester. Ms. Buck explained that the term “Right to Farm” doesn’t have anything to do with zoning or the State agricultural exemption. Leicester does have a local Right to Farm Bylaw in the General Bylaws, but it has to do with nuisance complaints if someone moves in next to a farm. Otherwise, she didn’t know how many exempt farms in Leicester qualify for the State exemption. To qualify for the State exemption someone had to own at least 2 acres and made \$1000 an acre; with 5 acres or more, there is no dollar amount.

Ms. Marttila asked about wildlife trying to get at their poultry and was there a Bylaw regarding someone protecting their livestock. Ms. Buck said that part is not addressed in zoning.

Ms. Marttila asked the Board to consider allowing trapping and disposing of animals on someone’s property. Ms. Kularski suggested to follow State law regarding that.

Ms. Marttila asked about whether her 9 year old daughter would be required to get a permit if she wanted 9 chickens. Mr. Grimshaw explained with the current Bylaw in place, 9 chickens would still be in violation. He said the new Bylaw was not this great effort of enforcement, but had more to do with compliance. The current Bylaw was more restrictive than the amendment. Ms. Marttila felt the Bylaw was too restrictive even for a 9 year old.

Mr. Grimshaw agreed with the suggestion waiving the special permit filing fee. He explained the special permit process wasn’t so much about being restrictive, as much as something being in place to protect everyone’s interests. It gives everyone that opportunity to voice his or her concerns and be a part of that conversation.

Ms. Lisa Johnson, 28 Washburn Street, agreed with forming a subcommittee and bringing all issues and concerns to the table. For example, size of the lot versus number of poultry, distance from abutting properties, abutter’s concerns, testing for diseased poultry, etc. She said once something was put in place that everyone agreed on, the State inspection office conducts free testing of poultry and that contact information should be included in the regulations.

Ms. Anne Edington, 393 Henshaw Street, felt the current Bylaw was restrictive if a 9 year old can’t have chickens and being connected to right to farm was an important point. The 6 chicken limit was arbitrary, because she owned 1 1/3 acres and 6 chickens could be cared for quite adequately. She agreed with having the number of chickens versus size of lot.

Mr. Grimshaw thanked the people in attendance and explained the concern people had with the process when presenting a Bylaw Amendment. He said although people weren’t personally notified on the amendment hearings, information was always posted and available on the Town website.

Ms. Buck said the Town Administrator put a deadline of February 1, 2018 for Warrant Articles be submitted for May 2018 Town Meeting. One issue the Board needs to decide was whether they wanted to go forward with an exemption so a 9 year old won't need to get a special permit and pay \$175 for a few chickens. There was also interest for a more comprehensive zoning rewrite related to everything agricultural, i.e. livestock and different lot sizes, which was not an easy process to finish before the February 1<sup>st</sup> deadline. She explained the possible need to have additional meetings in order for the Board to discuss and make final decisions on what zoning amendments will go forward for spring. She confirmed that all amendment public hearings are advertised public hearing and recommended the public to keep check on the website and local newspaper.

### **Approval of Minutes**

12/5/2017

MOTION: Ms. Nist moved to approve the minutes of December 5, 2017

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

### **Application**

ANR plan, Green Street (Kurt Gursky)

This plan creates two conforming lots with 200 feet of frontage.

MOTION: Ms. Friedman moved to approve the ANR plan for Green Street, Kurt Gursky

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

### **Town Planner Report**

A. Miscellaneous Project Updates

*Housing Study (CMRPC)*

Any Board member with comments or concerns, get them to Ms. Buck in writing a.s.a.p.

*Oakridge Estates*

The developer requested a minor project change. When they constructed a portion of the roadway in the third phase, the pavement was put outside to the right of way originally laid out. In order to construct the sidewalk, they need either to amend the subdivision plan and change the right of way, or propose a permanent construction easement for the sidewalk.

B. Future Zoning Amendments

*Recreational Marijuana*

The major concern was by not having anything on books and the State starts issuing licenses, the Town will have limited control, with a lot of uncertainty. Therefore, an amendment needs to be presented at the spring Town Meeting, and public input was needed before being presented.

Ms. Buck explained public input would give the Board a good sense on what the community was looking for, in terms of recreational marijuana.

Ms. Friedman suggested getting the word out through public media and inviting interested parties who may have a particular concern or interest. Ms. AbuSalah suggested also inviting the owners of Cultivate to hear their views.

*Next meeting*

All agreed Tuesday, January 23, 2018 to schedule public discussion on recreational marijuana.

Hearing no further discussion, Mr. Grimshaw asked for a motion to adjourn.

MOTION: Ms. Nist moved to adjourn meeting

SEONDED: Ms. AbuSalah – Discussion: None – VOTE: All in Favor

Meeting adjourned at 8:56PM

Respectfully submitted:

*Barbara Knox*

Barbara Knox

**Documents included in the meeting packet:**

- Agenda
- Memo to the Planning Board from Michelle Buck, Town Planner regarding the January 2, 2018 Planning Board Meeting
- Copy of Zoning Bylaw Amendment, Livestock & Backyard Poultry 0/27/2017
- Planning Board Minutes of December 5, 2017
- Copy of KP Law “An Act to Ensure Safe Access to Marijuana”; A guide to the revised law legalizing recreational use of marijuana, August 2017.

**Documents submitted at meeting:**

- Copy of Leicester Planning Board Poultry Discussion, January 2, 2018