

**Town of Leicester Planning Board
Meeting Minutes
March 10, 2020**

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

MEMBERS ABSENT: Jaymi-Lyn Souza

IN ATTENDANCE: Michelle Buck, Town Planner; Tiffany Peters, Department Assistant; Bryan Milward, Economic Development Coordinator

MEETING TIME: 7:00PM

AGENDA:

1. 7:00PM **Public Hearing, Special Permit Amendment/Enforcement of Violation**
Mulberry Solar #3 (SP2018-02), unauthorized tree clearing, review of proposed restoration plan (Applicant: Sycarpha Capital, LLC)
2. 7:30PM **Public Hearing, May 2020 Zoning Bylaw Amendments**
Amendment of Definitions and Adaptive Reuse sections of bylaw related to mixed-used developments and makerspaces.
3. 7:45PM **Town Planner Report/General Discussion:**
 - A. Potential Zoning Bylaw Amendment: Marijuana Cultivation
 - B. Miscellaneous Project Updates
 - C. Board Member Committee Updates
4. **Adjourn**

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

Public Hearing, Special Permit Amendment/Enforcement of Violation (SP2018-02)

Ms. Buck explained that there was a procedure error in the notification of this public hearing and requested a vote to continue hearing until March 24, 2020 at 7:30PM or as soon thereafter as may be heard.

MOTION: Ms. Friedman moved to continue the public hearing until March 24, 2020 at 7:30PM or as soon thereafter as may be heard.

SECOND: Ms. Nist

DISCUSSION: Devin Howe, Project Engineer from Beals Associates, Inc. representing CS Energy, addressed the Board asking for clarification on the procedural error that occurred. He states that they have been trying to work with the town to come up with restoration plan. He states that they notified the list of abutters that was provided to them from the Town and that now they are being told that surrounding towns also needed to be notified. We received waivers of notification from Worcester, Charlton, Auburn and Spencer. We did not receive waivers of notification from Oxford or Paxton before the hearing. Mr. Howe wants clarity on where these requirements are coming from as he states that they could not find in the Zoning Bylaws where it was their responsibility to notify abutting towns.

Ms. Buck states Town Counsel advised the Planning Board to follow the procedures for a Special Permit in this situation. Ms. Buck states that it is normal procedure for a Special Permit to send hearing notice to abutting towns. She states that she does not have an explanation as to why the procedural error occurred.

Mr. Howe is requesting the legal requirements for this process. Ms. Buck reiterated that we are

doing this per legal guidelines. Ms. Buck stated that the Planning office will handle notifying abutting towns before next Planning Board meeting.

Mr. Howe states that they are not here for a Special Permit and that this is not an amendment to a Special Permit; it is to lift a Cease and Desist order. Mr. Kularski explained that amendment was something that they were forced to put into place due to unauthorized trees that were cut down on the site. Mr. Howe states that they have a bond ready that is worth twice what the restoration will cost, and they are asking for a lift on the Cease and Desist. Mr. Howe states that there is a risk for future erosion due to the site not receiving final stabilization the longer the Cease and Desist Order is in place.

Mr. Grimshaw explains that due to procedural error this hearing is to be continued to March 24, 2020, and he calls for a vote.

VOTE: All in favor

Discussion, Potential Zoning Bylaw Amendment: Marijuana Cultivation

Lee Dykas of 124 Green Street proposes to the Board to amend the current bylaw to fit state law which now allows outdoor grow of marijuana. He presented a rough draft of the amended bylaw to the Board and an assessor map of the property. At this time, he states that his attorney, Hector Pineiro will speak on his behalf.

Mr. Pineiro states that he and Mr. Dykas visited a farm called Equinox Farm in Sheffield, MA to get a sense of what these types of places look like. Mr. Pineiro states that he can provide copies of the bylaws that Sheffield has in place. He states other towns have amended bylaws as well such as Barre and Pittsfield. Mr. Pineiro states that they included in their proposed amendment the definitions from the Cannabis Control Commission of Massachusetts. He also states that they have adopted regulations that are stricter than the state regulations. An example of this is that the Commission only mandates that a fence is required whereas the amendments being proposed here would require an eight-foot fence. Mr. Pineiro states that they are suggesting a minimum of five acres to be able to grow on property and that the grower be required to either pay taxes as a farm or file a 1040 with the federal government. Mr. Pineiro states that he believes this will create economic development for the Town as well because the Town will be given a percentage of the profits. He also states that by having this in the Suburban Agriculture (SA) district it allows some of this land to remain for growth and agricultural purposes which will provide employment into this area.

Ms. Friedman asks how many people this will employ. Mr. Pineiro states that he does not know yet as there are only a couple other types of these places in the state. He goes on to discuss the benefits of outdoor cultivation over indoor cultivation, stating that indoor cultivations have high costs, a larger carbon footprint and larger consumptions of electricity. He states that this amendment would encourage many of the Suburban Agricultural lands to remain for that particular use and to maximize the use of these properties.

Ms. Friedman questioned the issue of odor. Mr. Pineiro states that they spoke with the manager of the Equinox Farm who told them that depending on the varieties that you grow the levels of odor can fluctuate. He states that some produce stronger odors than others and that when growing outdoors you can pick the varieties that are less odorous and that they only emit an odor during the flowering season. He states that on the particular property that they want to grow on

they do not have anyone within 500 feet of where they plan to grow. He states that he does address the issue of odor in the amendment.

Ms. Friedman asked for confirmation that Pittsfield and Sheffield are the only towns who have outdoor growing facilities in this state. Mr. Pineiro states that there are two in Sheffield and one in Pittsfield. The Pittsfield farm is called Bittersweet. Mr. Dykas states that he is willing to do what is needed to get this going including visiting other growers, doing a site walk of his proposed property, etc. Mr. Dykas points out his property lines and proposed area on site map.

Ms. Friedman states that she can appreciate that Mr. Dykas has a great location for this but reminded him that approving this bylaw amendment would not only be approving it for his particular property but would be approving it for everyone so they need to make sure that the regulations that are set are ones that will work for everyone. Mr. Dykas states that in the packet he provided the Board there is the guidelines for farmers and the CMS500 which are the guidelines for cannabis which he states he bought from the state bookstore.

Mr. Kularski asked how Mr. Dykas determined the setbacks and the acreage included in the amendments. Mr. Dykas states that he made determinations based on what he thought was best for the Town's people. Mr. Dykas states that his grow would be subject to the same tax as Cultivate and would be able to generate more income for the Town with minimal impact to the town. He states that they will maintain high security on the property. Mr. Dykas states that the Cannabis Commission is accelerating outdoor farmer's applications.

Mr. Grimshaw asks Ms. Buck to weigh in on the two options for moving forward with these zoning amendments which are 1.) the Planning Board sponsoring and preparing something or 2.) the applicant submitting a petition article. Mr. Grimshaw expresses concern with the window if time to get this done before town meeting in May.

Mr. Grimshaw asks if the Town Administrator would like to speak on the matter. Town Administrator, David Genereux, states that he and Bryan Milward toured the property and states that Mr. Dykas did present this to the Select Board during public comments. He states that there is a current bylaw in place stating that amendments need to be submitted 45 days in advance. Mr. Genereux states that either Mr. Dykas or the Planning Board need to submit something by March 19, 2020 in order to bring it to the Town Hall floor for a vote and that minor changes or adjustments can be made after the initial submission as long as it does not alter the scope of the article.

Ms. Friedman states that her biggest concern is not Mr. Dykas's property but how it will fit into other properties. She states that issues such as setbacks and odor control may be a problem on other people's property.

Mr. Kularski expresses concerns about setbacks and acreage being proposed.

Mr. Grimshaw states he would like to see what the Town of Sheffield has in their bylaws for setbacks, which was provided to him by Mr. Dykas. Mr. Dykas is advised by the Board that if his article fails at town meeting that he cannot bring it back for 2 years unless the Planning Board changes its recommendation.

Mr. Dykas states that he plans on creating a Facebook page in order to provide transparency for the Town's residents.

The Board and Ms. Buck discussed options of submitting the bylaw amendment and determine that the best option is for Mr. Dykas to submit a citizen's petition which would be filed with

Select Board. The Select board then has 14 days to forward it to the Planning Board. The Planning Board would then hold a hearing that would be tentatively scheduled for some time in April. At that hearing, amendments would be discussed. This option would allow more time for the Planning Board to review and make recommendations to the amendments. Mr. Genereux explains the process of events that need to occur for the article to be ready to be brought to the floor at Town Meeting. Mr. Grimshaw states that the Board feels a citizen's petition is the best way to move forward with bringing these Zoning Bylaw amendments to Town Meeting due to the time limitation at hand.

Public Hearing, May 2020 Zoning Bylaw Amendments, Adaptive Reuse

Mr. Grimshaw reads the hearing notice for the May 2020 Zoning Bylaw Amendments. Ms. Buck states that she had been working on amendments for a few months in order to make comprehensive changes to the Greenville Village Neighborhood Business [NB] district.

Ms. Buck states that she has prepared this Adaptive Reuse proposal as an interim way to allow reuse of mill structure on Hankey Street although it would apply to any structure in town that qualifies as an Adaptive Reuse structure which are historic mill buildings and former municipal buildings. The proposal includes a definition of makerspace which includes a variety of industrial and artistic uses and may include live/workspaces. Ms. Buck states that as drafted right now makerspaces will only be allowed as a part of an Adaptive Reuse project. Ms. Buck states she did not add makerspaces to the general use table to ensure that we are being careful about it so as of this time use is only allowed in an Adaptive Reuse project and by Special Permit.

The second part of the proposal adds the definition of mixed-use development. This was included in the proposal because it is being added as allowed use for adaptive reuse. There are two categories of mixed-use development: vertical mix and horizontal mix. Horizontal mix is when the residential and business use are on the same level. A vertical mix is when the residential use is the level above the business use. The definition of horizontal mix is proposed to be amended to allow a single residential unit combined with a commercial use.

Five new uses that are to be added to the adaptive reuse are mixed use development vertical, mix, mixed-use development horizontal mix, brewery/distillery/winery, brew pub, and makerspace. Ms. Buck states she proposed some changes to the language related to multi-family units. Per Ms. Buck, we have had on the books for a while that an Adaptive Reuse project could include multi-family which included an affordability requirement. Ms. Buck is proposing that the affordability requirement only be required for ten or more units because it is difficult to meet the state's requirements for affordability, especially for small projects. Ms. Buck also states that she proposed the affordability requirement be recommended but not required for live/workspaces associated with makers spaces. Ms. Buck states that ideally, she would like to have a more clearly defined definition of what a live/workspace is. At this time, it is only allowed by Special Permit. Michelle asked for the Board to vote on Planning Board approval for this at Town Meeting.

MOTION: Ms. Friedman moved to approve the Zoning Bylaw amendments as proposed.

SECOND: Ms. Nist

DISCUSSION: Sandy Wilson speaking for the public asks a question regarding vertical space in reference to how it would apply to the Memorial School. Ms. Buck states that amendments would be less restrictive. Ms. Wilson questions what the course of action would be if there was

something going in a location such 15 Water Street do it being a unique space cause of its size. Ms. Friedman stated that since it would be by Special Permit, they would be able to regulate it.
VOTE: all in favor

Town Planner Report

Oak Bluff:

Ms. Buck states that on March 24th we have lot releases for Oak Bluff coming up and that Board approved the surety amount in January. Payment has been provided but we are still waiting for information related to soil testing. She will also have to prepare a Performance Agreement for the Board's signature. Mr. Kularski states that he went to the Oak Bluff site and the pavement is falling apart already in two areas. Ms. Buck states she will be in touch with the developer about it.

Greenville Baptist Church:

Site plan Review is scheduled for the planned for the March 24, 2020 meeting.

Board Updates:

Memorial School

Mr. Kularski mentions that there was a meeting regarding the Memorial School that he was unable to attend. Sandy Wilson states that at that meeting the parcel issue was discussed. She states at Town Meeting it was voted on as one parcel which was only the parking lot, building and portion of the back hill. It did not include all the fields. Ms. Wilson states they voted to include at the May Town Meeting to include the fields as part of the whole property. Ms. Wilson also mentioned the land swap with the Hillcrest Water District which goes back to 1964 where Hillcrest Water had a plot of land given to them by the Smith family. They realized they couldn't build the tower where they intended to and chose to build it on the other side of the top of Lehigh Rd and in 1964 at Town Meeting it was voted that they swap the parcels, however it never got recorded at Worcester County Deeds. Ms. Wilson states in 2016 it was voted on Town Hall floor to authorize the selectmen to give them the property that the tank was really on. Hillcrest did not act to give the Town back the other parcel of land. She states that those are two articles to include them as a part of the whole Memorial School parcel. She states that there are three potential buyers who want the fields included. The entire parcel is just under 32 acres but only 28 have been approved.

Capital Improvement Committee

Ms. Nist states that the Capital Improvement Committee met and they re-evaluated with input from Department Heads as to how they wanted things rated regarding budget. Ms. Wilson included that eight of the nine things that were on Capital for the year are going to be on the warrant including (but not limited to) a new ambulance, replacement of roof at station two, replacement of detective's car, car port at the police station, cameras at high school, generator, and bathroom renovation in Town Hall.

Economic Development Committee

Mr. Grimshaw mentions that Economic Development has Open for Business event on Thursday night [March 12, 2020] and that students did community service making phone calls and getting the word out. They are expecting a good turnout for the event.

The next Planning Board meeting is scheduled for March 24, 2020 at 7:00pm

MOTION: Ms. Nist moved to adjourn

SECOND: Ms. Friedman

DISCUSSION: Mulberry Solar is to email Michelle tomorrow with general questions.

VOTE: All in favor

Meeting adjourned at 8:20pm

Respectfully Submitted,

Tiffany Peters, Department Assistant

Documents included in meeting packet:

- Agenda
- Memo from Town Planner dated 3/5/2020
- Email from Town Planner to Landscape Architect screening buffer at Mulberry Solar dated 3/5/2020
- Recommendation letter from EarthDesign for buffer re-planting plan for Mulberry Solar dated 03/03/2020
- Memo from Quinn Engineering regarding Mulberry Solar site walk dated 03/02/2020
- Memo from Quinn Engineering regarding Mulberry Solar tree restoration dated 02/20/2020
- Memo from Quinn Engineering regarding Mulberry Solar site walk dated 01/28/2020
- Site plan from Jarvis Land Survey, Inc
- Leicester Planning Board Public Hearing Notice: Zoning Bylaw Amendments
- Copy of Zoning Bylaw Amendments Adaptive Use Overlay District Improvements dated: 01/27/2020
- Proposed Bylaw Amendments and Use Table as submitted by Lee Dykas date stamped by Town Clerk on 03/04/2020

Documents submitted at meeting:

- Detailed packet of information regarding Marijuana cultivation including proposed amendments submitted by Lee Dykas
- Email from Michelle to Lee Dykas regarding Zoning Bylaw Change Information
- Revised Recommendations – Syncartha Buffer Re-Planting dated 03/09/2020