

**Town of Leicester Planning Board
Meeting Minutes
May 5, 2020**

[Note: This meeting was held remotely using GoToMeeting]

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

MEMBERS ABSENT: None

IN ATTENDANCE: Michelle Buck, Town Planner, Tiffany Peters Department Assistant

MEETING TIME: 7:00PM

AGENDA:

1. 7:00PM **Public Hearing, Zoning Bylaw Amendment (Citizen Petition):**
Outdoor Marijuana Cultivation, Applicant: Lee Dykas
2. 7:45PM **Approval of Minutes:**
 - January 7, 2020
 - January 22, 2020
 - February 18, 2020
 - March 10, 2020
 - March 24, 2020
3. 8:00PM **Town Planner Report/General Discussion:**
 - A. Acceptance of MGL Chapter 110G, Section 9 related to electronic signatures
 - B. Project Updates: Mulberry Solar 3
 - C. Miscellaneous Project Updates
 - D. Board Member Committee Updates

4. Adjourn

Mr. Grimshaw called meeting to order at 7:03PM

Public Hearing, Zoning Bylaw Amendment (Citizen Petition), Outdoor Marijuana Cultivation (Applicant: Lee Dykas)

Mr. Grimshaw reads the hearing notice.

Ms. Buck provides a summary of bylaw amendments in which she explains that the amendments would allow outdoor marijuana cultivation anywhere in the Suburban-Agricultural Zoning District (it is prohibited in all other districts) by special permit from the Planning Board. Parcels would be required to have a minimum of 15 acres to 50 acres depending on the size of the project. Setbacks requirements would be 500 from schools and daycare facilities and 200 feet from all property lines. The proposal also contains specific criteria for granting a special permit. The proposal adds a definition for a new use called Marijuana Outdoor Cultivator which allows people to grow marijuana outside. Ms. Buck states that there is an explicit prohibition in the Neighborhood Business District. She states that there is a new sections of Marijuana Outdoor Cultivator requirements which includes a purpose statement, applicability and very specific performance standards for this use which are mainly related to security. The proposal requires an 8 foot, opaque, perimeter fence, security alarms, video cameras and the ability to remain operational during a power outage. They will also be required to submit an emergency response

plan to Leicester Fire and Police. Ms. Buck states that there is specific special permit criteria that the Planning Board would consider when an application is received which includes character of the neighborhood, visual compatibility with surrounding uses, proximity to other licensed marijuana uses to prevent clustering, relationship to surrounding uses to prevent unnecessary exposure to minors, site design and other development related site impacts and odor control.

Mr. Grimshaw asks if the applicant has anything to add. Mr. Lee Dykas states he looked at bylaws in other towns such as Pittsfield, MA and Sheffield, MA and states in his opinion the bylaws in those towns are more liberal than what is being proposed here. He states other regulations that they are implementing are in the Massachusetts Cannabis Control Commission rules and regulations, so our bylaw would be in accordance with the Commonwealth's standards.

Mr. Hector Pineiro, Attorney for Mr. Dykas states it will bring a stream of revenue to the municipality. Mr. Pineiro states that they would have to get a Community Host Agreement and then apply for a special permit through the Planning Board. He states that this project is probably only the fourth in the Commonwealth and that it is an excellent opportunity for Mr. Dykas, the Town, the creation of employment in the Town, the generation of revenue and maintenance of agricultural land.

Mr. Kularski asks if there will be any lighting such as grow lights or any kind of light that would contribute to light pollution. Mr. Dykas states they can have lights in the beginning of the season in the green house. He states that besides that there are no lights during the growing process because the plants use natural light only. Mr. Dykas states that every outdoor grow has a green house to start the plants. Mr. Kularski states he is concern is that they have seen other applicants requesting green house permits and that one of the requirements is that there is no light pollution and that it is his opinion that there would have to be similar requirements for this type of operations as well. Mr. Dykas states that those rules are laid out in the Cannabis Control Commission CMR (Code of Massachusetts Regulations). Mr. Dykas states that light pollution should not be an issue due to it being small plants and small lights behind an opaque fence. Mr. Kularski states that light pollution goes up into the sky and that this is one factor that may be an issue. Mr. Dykas states that he does not know if lights are run at night or during the day. He believes that it is during the day. Mr. Pineiro states that they will reach out to other outdoor cultivators regarding this. Mr. Pineiro states that a transparent green house is necessary because they also require sunlight before they are transplanted into the field. Ms. Buck states that all the existing standards for marijuana facilities are still in effect, there are just additional standards being put into place for outdoor cultivation which includes limiting light from marijuana facilities. The existing bylaw states that lighting should not extend beyond property line and artificial lighting from within the building shall not create light pollution. Mr. Pineiro asks if that means that something (about light pollution) needs to be added to this amendment or if it would be covered under the original bylaw. Ms. Buck states she believes the existing bylaw covers the issue of light pollution.

Ms. Nist asks if the opaque fencing will be enough of a security measure. Mr. Dykas states that the security plan needs to be approved by the Cannabis Control Commission and by the Police Chief. Mr. Dykas states that from the start of the flowering process until harvest they are required to have 24-hour manned security. Ms. Nist asks if security is required prior to flowering process. Mr. Dykas states that there will be alarm system, lighting and cameras in the prior growing stages. Ms. Nist inquires if 90 days is enough of a time frame to keep security recordings and adds that maybe it should be increased to 180 days. Mr. Grimshaw states that it

appears that the 90-day time frame comes from the CMR. Mr. Pineiro states that the 90-day requirement for keeping video recordings is in the CMR 935 500.110 subsection 6. Mr. Dykas adds that 90 days is the standard in the Commonwealth for all security recordings. Mr. Dykas states all servers and recordings need to be stored in a secured building. Ms. Nist asks if recordings are not going to be stored on site, where they would be stored. Mr. Dykas states they would be stored at an independent server where data can be stored.

Ms. Buck states that there are typographical issues to go over. Ms. Buck states that since this is a citizen's petition, they cannot amend it and that the printed warrant will stay as is. If corrections are to be made, a motion needs to be prepared by the applicant's attorney to be read at Town Meeting. She states she can talk to Mr. Pineiro about how he wants to handle the typographical errors. She states it is her opinion that the typographical errors and the footnotes should be removed. She states the footnotes are not intended to be a part of the bylaw. Ms. Buck reviews the typographical errors and additional errors were found by Ms. Nist.

Mr. Kularski has concerns about a marijuana grow being 200 feet from a property line potentially being bothersome to some people (regarding the minimum acreage of 15 acres). He states that it is his opinion that the acreage requirements need to be increased and asks if that is something that can be done from the floor at Town Meeting. Mr. Dykas states that the acreage requirements would allow people to have micro-grow projects. He states that it is his opinion that a lot of people wouldn't bother to try and do a small grow because it is not cost effective as there are a lot of start-up and overhead costs involved. Mr. Dykas states that the option form micro growing can be an opportunity for people to utilize their land and sustain their farms.

Mr. Kularski states he is concerned about odor. He states in his profession he has experienced how odor of small grow operations can become overwhelming and impact abutters. Mr. Dykas states that you can pick lower odor plants. He also states there are other plants that you can plant along with the marijuana to help mask the odor such as lavender. Mr. Kularski states that there is nothing in the proposal stating that the grower must do that, and his concern is that there will be odor complaints, specifically on smaller acreage. Mr. Dykas states that special permit process will allow the Planning Board to manage these types of issues.

Ms. Friedman discusses her concerns that even though a person may have 15 acres, it may not all be able to be cultivated (wetlands, ledge). She states that having a 200-foot setback allows for flexibility to be able to use a large parcel. She asks if part of the special permit they may be able to require that lower odor marijuana plants be planted. Discussion is had regarding managing odor control as a special permit condition. Ms. Buck states we would need to determine how it would be enforced, one way being if we received complaints.

Mr. Dykas states that this process is highly regulated by the Massachusetts Cannabis Control Commission. Mr. Kularski states he still has an issue with the acreage requirements as he believes the smaller farms that directly abut residences that may present a challenge. Mr. Grimshaw suggests that the special permit process will give the Board some control over circumstances on specific properties. Mr. Pineiro adds that the Town has the authority to take each application into consideration based on abutters, neighborhood, parcel size, etc. Mr. Grimshaw asks if there are any other questions from the Board or Public.

Ms. Friedman states that she thinks the proposal was very well done and commends Mr. Dykas on what he presented to them. She states he took their concerns into consideration and maintained a balance between the needs of the developer and the community.

Motion: Mr. Kularski moved to recommend approval at Town Meeting
Second: Mr. Friedman
Discussion
Roll Call Vote: All in favor (5-0-0)

Motion: Ms. Friedman moved to close the hearing
Second: Ms. Nist
Discussion: None
Roll Call Vote: All in favor (5-0-0)

Approval of Minutes

January 7, 2020

Motion: Ms. Nist moved to accept the minutes for January 7, 2020
Second: Ms. Friedman
Discussion: None
Roll Call Vote: All in favor (5-0-0)

January 22, 2020

Motion: Ms. Nist moved to accept the minutes for January 22, 2020
Second: Ms. Friedman
Discussion: None
Roll Call Vote: All in favor (5-0-0)

February 18, 2020

Motion: Ms. Nist moved to accept the minutes for February 18, 2020
Second: Mr. Kularski
Discussion: None
Roll Call Vote: (3-0-2) Ms. Friedman & Mr. Kularski abstained

March 10, 2020

Motion: Ms. Nist moved to accept the minutes for March 10, 2020
Second: Ms. Friedman
Discussion: None
Roll Call Vote: All in favor (5-0-0)

March 24, 2020

Motion: Ms. Nist moved to accept the minutes for March 24, 2020
Second: Ms. Friedman
Discussion: None
Roll Call Vote: All in favor (5-0-0)

Town Planner Report/General Discussion:

Acceptance of MGL Chapter 110G, Section 9 related to electronic signatures

Motion: Ms. Souza moved that the Leicester Planning Board recognize and accept the provisions of MGL Chapter 110G regarding electronic signatures and that its members will henceforth execute documents either with electronic signatures or with wet ink signatures and

that both will carry the same legal weight and effect.

Second: Ms. Nist

Discussion: None

Roll Call Vote: All in favor (5-0-0)

Mulberry Solar 3 Update

Ms. Buck states that Mulberry Solar has submitted several minor project changes. Ms. Buck states she denied the request to relocate the fence because it marked the perimeter of clearing that was already violated, and she thought it was important to leave it where it is as a permanent indicator of limits of clearing. Ms. Buck states they are moving aggressively on the site and have completed a lot of the planting. She states that Kevin Quinn of Quinn Engineering visited the site the week prior. At the completion of the restoration plan both Mr. Quinn and Landscape Architect, Ms. Alice Webb, will walk the site together to review the finished restoration work. Once this has been completed, they can finish the solar project.

Ms. Buck states she has received complaints from the Conservation Commission related to storm water runoff on the site. She states that they have taken some corrective action in the past week. Ms. Buck states she received an email from a Conservation Commission member asking to implement additional hay bales and storm water controls along Chapel Street. She states that there is still one area that is a problem and that there has been an ongoing issue of water turbidity. Ms. Buck states that the Mulberry Solar team has been responsive to the issues being presented and have been working on them. Ms. Buck suggests that it continue to be monitored.

Upcoming Meetings:

Ms. Buck states that in the legislation that was passed regarding meetings during the State of Emergency delegates the Chair of public boards the discretion on whether to call a meeting. As of this time there are no pending Planning Board applications. Ms. Buck states that when another application comes in, we may want to consider postponing meetings if it is something that has a large public impact or significant abutters concerns. Ms. Buck states that we currently do not have to act on any applications until 45 days after the State of Emergency ends. Ms. Buck states we may be receiving an application for a subdivision on Parker Street and we may want to consider pushing the hearing out to include more comprehensive citizen engagement. Ms. Friedman adds that it is difficult as a Board member to ask questions through the online forum.

Hankey Street Maker's Space Project:

Ms. Buck states that the people who are working on the Hankey Street Maker's Space are also in the process of purchasing the Suburban Propane Property. She states that they have floated a conceptual level design that includes over 700 housing units, industrial uses and other uses. This is out of scale in terms of prior discussions that they have had with the Planning Board. The current zoning amendment that is going to the Town Meeting floor would not allow that type of development on the Suburban Propane property. Ms. Nist asks how much land the Suburban Propane property is. Ms. Buck states maybe 15-20 acres but she is not sure. Ms. Friedman asks if the proposal was just for housing. Ms. Buck states that there were other things such as a daycare center proposed. Ms. Buck states that the conceptual proposal was multiple buildings.

Town Meeting:

Ms. Friedman asks when a decision will be made about when Town Meeting will be held. Ms. Buck states that it is currently set for June 2, 2020 and she believes that they will wait and see what the Governor has to say as we approach May 18th which is the day that the State of Emergency currently ends.

Economic Development Committee Update

Mr. Grimshaw states that the EDC has been communicating through email and that last week they were reviewing the business list that they had created for the Open for Business event that has been postponed. The Chair thought it would be a good idea to reach out to a few of the local business to check in with them.

Motion of Adjourn

Motion: Mr. Kularski

Second: Ms. Nist

Discussion: None

Roll Call Vote: All in favor (5-0-0)

Meeting adjourned at 8:16PM

Respectfully Submitted,
Tiffany Peters, Department Assistant

Documents included in meeting packet:

- Agenda
- Memo to Planning Board from Town Planner dated April 30, 2020
- Public Hearing Notice
- Article: Citizen Petition Amendment to Medical Marijuana Treatment Centers & Marijuana Establishment Bylaw of the Town of Leicester
- Meeting Minutes for January 7, 2020
- Meeting Minutes for January 22, 2020
- Meeting Minutes for February 18, 2020
- Meeting Minutes for March 10, 2020
- Meeting Minutes for March 24, 2020
- Suggested Motion Regarding Electronic Signatures
- Letter from the Worcester District Registry of Deeds dated April 23, 2020
- Massachusetts Deed Indexing Standards 2018 – April 2020 Amendment
- Letter from the Worcester District Registry of Deeds dated April 9, 2020

- Letter from the Town of Leicester Planning Board to Ashlesh Kurahatti dated April 22, 2020 regarding Mulberry Solar 3, Project Change Requests April 2020
- Email to Town Planner from Ashlesh Kurahatti dated April 16, 2020
- Site Plans for Mulberry Solar 3
- Email to Town Planner from Ashlesh Kurahatti dated April 21, 2020
- Memo from Quinn Engineering dated April 30, 2020 regarding Mulberry Street Solar Site Visit

Documents submitted at meeting: None