



TOWN OF WARE

Planning & Community Development
126 Main Street, Ware, Massachusetts 01082

t. 413.967.9648 ext. 120

Planning Board

Meeting Minutes from

Thursday, January 20th, 2022

Select Board Room, Town Hall

Planning Board Members Present:

Josh Kusnierz (Chairman)
Rick Starodoj (Vice-Chairman)
Joe Knight (Remote)
Ed Murphy, III (Remote)
Ken Crosby (Remote)
Elizabeth Hancock (Alternate)

Staff Present:

Rob Watchilla (PCD Director)
Laura White (PCD Assistant)
Anna Marques (Building Commissioner)

Public in Attendance:

Caitlin McCarthy

PLEDGE OF ALLEGIANCE

Chairman J. Kusnierz called the meeting to order at 7:00 pm and led the Board in the Pledge of Allegiance.

E. Murphy joined the meeting at 7:01pm.

ADMINISTRATIVE

Approval of meeting minutes from January 6, 2022.

Motion made by R. Starodoj to approve minutes. Seconded by K. Crosby.

Josh Kusnierz	Aye
Rick Starodoj	Aye
Ed Murphy	Aye
Ken Crosby	Aye
Joe Knight	Aye

All in favor. Approved 5/0/0

Letter to Former Assistant

R. Watchilla informed the Board that he wrote a letter of gratitude to Former Department Assistant, A. Ziter and asked the Board members if they would like to sign it.

All in attendance signed the letter and the Board expressed their gratitude for all that A. Ziter had contributed to during his time with the Planning Department.

Right of First Refusal

R. Watchilla informed the Board of a property on Campbell Road that, under Chapter 61A, the Town has the right to purchase the property on the same terms and for the same price that is stated in the purchase and sale agreement between the owner and a third party. The property is Parcel ID# 43-0-2, it is approximately 1.5 acres, undeveloped, and is being sold for \$40,000.

The Board does not recommend the Board of Selectmen use Town monies to purchase this property, as it does not appear it would provide any value to the Town.

Motion made by R. Starodoj to recommend the Board of Selectmen not use Town monies to purchase this parcel. Seconded by E. Murphy.

Josh Kusnierz	Aye
Rick Starodoj	Aye
Ed Murphy	Aye
Ken Crosby	Aye
Joe Knight	Aye

All in favor. Approved 5/0/0

OLD BUSINESS

Zoning Bylaw Updates

Review of recently proposed updates to previously discussed sections of Zoning Bylaw

Cannabis

Registered Marijuana Facilities (RMF) and Marijuana Cultivation Sites (MCS) §4.8.8

- **Part A- Purpose**

R. Watchilla informed the Board of the addition of the term **Marijuana Delivery Operators (MDOs)** to this part of §4.8.8.

- **Part B - Intent**

R. Watchilla informed the Board of the addition of the term **Marijuana Delivery Operators (MDOs)** to this part of §4.8.8.

- **Part C - Definitions:**

R. Watchilla read the proposed definitions for the following terms:

- **Marijuana Delivery Agreement**
- **Marijuana Delivery Endorsement**
- **Marijuana Delivery License**
- **Marijuana Delivery Licensee**
- **Marijuana Delivery Operator (MDO)**
- **Marijuana Microbusiness**

J. Kusnierz inquired about the difference between a **Marijuana Courier** and a **Marijuana Delivery Operator**.

R. Watchilla stated that the term **Courier** refers to a Medical Marijuana Delivery driver, while the term **Delivery Operator** refers to a Recreational Marijuana Delivery driver.

The Board agreed to the proposed definitions.

- **Part D - Special Permit and Site Plan Approval Required**

R. Watchilla informed the Board of the addition of the term **Marijuana Delivery Operators (MDOs)** to this part of §4.8.8.

- **Part E - Separation and Setbacks**

The Board discussed the language in this section of the Town Zoning Bylaw. Specifically, the use of terms like “Commonly” and “Congregate.” J. Kusnierz suggested these terms are too vague and are open to interpretation.

K. Crosby suggested adding “in the opinion of the Board” to this section.

The Board discussed whether or not the Planning Board has the authority to do this.

E. Hancock suggested this language may be outdated and could be referring to medical marijuana instead of recreational marijuana. She also stated that this language may be in conflict with what the Cannabis Control Commission (CCC) is saying, and that it could potentially be challenged.

J. Kusnierz asked if the Board could seek council on this section of the Town Zoning Bylaw.

R. Watchilla stated all Bylaw updates will be reviewed by council before the Public Hearing.

The Board discussed examples of how this language could be challenged.

E. Murphy suggested using a specific number, instead of the term “Commonly,” to eliminate ambiguity. The Board discussed this as a possibility.

E. Hancock suggested adding “preschool, kindergarten, public library, and recreation facilities” to the language of this part of §4.8.8.

The Board agreed to table this section of the Bylaw until the next meeting.

- **Part G - Standards Applicable to Registered Medical, Recreational and Hybrid Marijuana Facilities, Marijuana Cultivation Sites, and/or Marijuana Delivery Operators**

J. Kusnierz inquired about a concern that was brought up regarding subleased properties being used as a marijuana business.

R. Starodoj stated that this would be governed under the original lease agreement and they would have to file for a business certificate, making the Town aware.

R. Starodoj asked if existing businesses would need to adhere to new rules and regulations set forth by the CCC.

R. Watchilla stated that all new businesses would have to adhere to current rules and regulations. However, existing businesses would only need to adhere to the rules and regulations in regard to zoning that were in place when they were first established.

E. Hancock raised concerns about boundary lines for growing operations.

R. Watchilla stated it would be covered by the Site Plan Review under the Special Permit.

R. Starodoj brought up concerns about whether the Board is responsible for cross-pollination.

The Board discussed potential effects of cross-pollination between Hemp and Marijuana.

The Board agreed to leave Part G of §4.8.8 as it is written.

Earth Removal

- **Part C- Exemptions**

The Board agreed to the removal of the second part of point 1.

The Board agreed to change “Planning Board” in subsection “i” of point 2b to “Special Permit Granting Authority (SPGA).”

- **Part D - Operational Standards**

In Point 2, regarding a waiver of the 50’ buffer from the property boundary for abutting earth removal operations, the Board agreed that the involved parties must agree prior to coming to the Planning Board for approval.

R. Watchilla suggested replacing “Planning Board” with “an approval of the modification of the applicable existing earth removal permit by the Special Permit Granting Authority.” The Board agreed to this amendment.

- **Part F - Decision**

The Board discussed the noise level limitations set forth in §4.3.24

The Board agreed to leave the wording of Point 1, section “d.”

Under Point 2, section “c,” the Board agreed to change the language from “every 5 years,” to “at a minimum of every 5 years, unless otherwise specified by the Special Permit Conditions.”

The Board suggested the following amendments to section “i,” subsection “i”:

- Remove “for (1) one year after termination of the earth removal project or,”
- Change the word “will” to “shall,” and
- Change the word “use” to “cause”

The revised subsection would then read, “The bond, check or cash deposit shall be held by the Town Treasurer until all conditions of the permit have been met to the satisfaction of the SPGA. If after (18) eighteen months from the issuance of the permit all conditions as required in the permit have not been met (especially grading and seeding), the SPGA *shall cause* the monies to restore the site to its natural state.”

Article 1 - General Provisions

- **Adoption of Rules and Regulations**

The Board agreed to this provision, as written.

Article 2 - Definitions

- **Craft Distillery**

The Board agreed to this definition, as written.

A. Marques joined the meeting at 8:14pm

- **Farm**

The Board agreed to change the definition to, “A property used for commercial agriculture (raising crops, hemp, and/or livestock), horticulture (raising fruits, flowers, ornamental plants [to include tree farms], or vegetables), silviculture (forestry), aquaculture (raising fish or shellfish), or viticulture (raising grapes). This includes facilities for the sale of produce, wine and dairy products, provided that either during the months of June, July, August and September of each year or during the harvest season of the primary crop raised on land of the owner or lessee, 25 percent of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located.”

- **Hemp**

J. Kusnierz suggested adding the abbreviation “THC” in parenthesis to the term “delta-9-tetrahydrocannabinol” in this definition.

- **Junkyard**

The Board agreed to table this definition until the Planning Department and the Zoning Enforcement Officer are able to meet with the Board of Health regarding the definition.

- **Marijuana Delivery Operator**

The Board agreed to this definition, as written.

- **Microbrewery**

R. Starodoj suggested adding the gallon equivalent of the 15,000 barrel limit in this definition.

- **Marijuana Microbusiness**

The Board agreed to this definition, as written.

- **Park**

The Board agreed to this definition, as written.

The Board agreed to table the following topics until the next meeting:

- Earth Processing
- Junkyards
- Powers of the Zoning Enforcement Officer
- Use Table §4.2

Battery Storage Facility

E. Hancock inquired about the Battery Storage Facility discussion.

R. Watchilla informed the Board that J. Chartier, of the Zoning Board of Appeals, brought up the idea of proposing a possible moratorium to be voted upon at the Town Meeting in the spring. Once more regulations come out, the State can give better guidance to towns in Massachusetts on this topic.

R. Watchilla stated that this will be a ballot item at the Town Meeting, along with social consumption of Marijuana.

NEW BUSINESS

J. Kusnierz announced he is not running for another term as Chairman of the Planning Board and that his seat will be open. He recommended E. Hancock to run for the Chairman seat. He stated E. Hancock is an incredible asset to the team, and to the Town, and an amazing contributor to the Board.

E. Hancock stated she will consider running for the open seat.

J. Kusnierz asked fellow Board members to consider the Mullin Rule and, for better communication between Board members, he asked them to make an effort to join the meetings in person, if they are able to.

TOWN PLANNER UPDATE

Right-to-Farm Survey Analysis

R. Watchilla informed the Board of the information gained from the Right-to-Farm survey that was sent out:

- 35 surveys were sent out to Chapter 61A tax titled households in town. Most of which were agricultural use properties
- 18 surveys were returned
- 11 listed their return addresses, all of which were in Rural Residential Districts
- The majority of respondents were over 60 years old and have lived in town for over 40 years
- Respondents were asked about their current professions, and could choose multiple answers. Of the respondents:
 - 7 are retired
 - 7 are crop farmers
 - 6 are tree farmers
 - 5 are animal farmers
 - 1 is also an engineer
 - 1 is also a blacksmith
 - 1 is also an accountant
- 75% of respondents were familiar with the Right-to-Farm Bylaw.
- 72% of respondents have not received a nuisance complaint in the last 6 months.
- 65% of respondents have not received a nuisance complaint in the last 1-2 years.
- 55% of respondents have not received a nuisance complaint in the last 3-5 years.
- 27% of respondents have received nuisance complaints in the last 3-5 years.
- Most nuisance complaints received by the respondents were in regard to slow-moving vehicles. Some farmers stated they were harassed by other drivers while on the road.
- 44% of respondents felt the current Town regulations do not make it difficult for them to operate their farm or agricultural business.
- 33% were unsure of the Town's current regulations
- 16% felt the current Regulations make it difficult for them to operate their farm or agricultural business.
- Only 33% of respondents were aware of the existence of the Town's Agricultural Commission
- 10 respondents said they do not want to serve on the Ag. Commission
- 6 respondents said they might want to serve on the Ag. Commission, but only 2 gave their contact information
- 1 respondent said they want to serve on the Ag. Commission and gave their contact information

R. Watchilla informed the Board that, although the main point of the Right-to-Farm Bylaw is to protect farmers from nuisance lawsuits and complaints, it would also allow for the Town to put up signs on major roadways in town warning drivers of slow-moving vehicles.

J. Kusnierz requested the Right-to-Farm Bylaw topic to be discussed further at the next Planning Board meeting, specifically regarding farmer harassment.

J. Kusnierz suggested reaching out to those interested in serving on the Ag. Commission, and asking if they would like to come to a Planning Board meeting.

R. Watchilla suggested a joint meeting between the Planning Board and the Board of Selectmen to discuss the Right-to-Farm Bylaw.

J. Kusnierz agreed with R. Watchilla and requested the Planning Dept. Director send a letter to the Board of Selectmen inviting them to the next Planning Board meeting.

Town Zoning Map Update

E. Hancock inquired as to when the Town Zoning Map was last updated, as she saw a Town Zoning Map in the Town Clerk's office that said "May 15, 2019" at the bottom.

R. Watchilla stated he would request a copy of the updated map and look into it for the Board.

J. Kusnierz stated he will be sending an email to each Board member asking if they plan to attend the next meeting, in person.

ADJOURN

Motion made by E. Murphy to adjourn at 9:03pm, Seconded by R. Starodoj.

- Josh Kusnierz Aye
- Rick Starodoj Aye
- Ed Murphy Aye
- Ken Crosby Aye
- Joe Knight Aye

All in favor. Approved 5/0/0

The next meeting is scheduled for Thursday, February 3, 2022 at 7 pm.

Minutes from January 20, 2022

Respectfully submitted by,

Laura White
Administrative Assistant
Planning & Community Development

2-3-2022

Minutes Approved on: _____	
Kusnierz	_____
Starodoj	<i>[Signature]</i>
Knight	_____
Murphy	<i>[Signature]</i>
Crosby	<i>[Signature]</i>