



## TOWN OF WARE

Planning & Community Development  
126 Main Street, Ware, Massachusetts 01082  
(413)967-9648 ext. 186 pcd@townofware.com

### PLANNING BOARD

#### MEETING MINUTES

MARCH 20, 2019

Location: Town Hall, 126 Main Street, Ware, MA 01082

Time: 7:00 PM

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#### Pledge of Allegiance

**Present: Chairman Rick Starodoj, Jennifer Muche, Edward Murphy, Joseph Knight, Town Manager Stuart Beckley, Clerk Mary L. Midura**

**Absent: Josh Kusnierz, Fred Urban**

**The meeting is video recorded.**

Chairman Starodoj welcomed Jennifer Muche. He noted that the March 14 EQLT meeting had an informative packet and a great exchange of ideas regarding solar bylaws and amendments, with further information over the next months. Any ideas can be sent in to EQLT, with more meetings proposed for the end of April, beginning of May, and input is welcome and valued. Chairman Starodoj noted the Special Town Meeting article which was approved for a 14-month moratorium to June 30, 2020 or Spring Town Meeting. This could possibly be put on the Fall Town Meeting.

#### Administrative

- a. Approve minutes from February 20, 2019 and March 6, 2019

Chairman Starodoj noted that, in the minutes of February 20, 2019, #8, wording should be that Mr. Starodoj "questioned if fencing".

**Ed Murphy made the motion to approve the amended minutes of February 20, 2019 and the minutes of March 6, 2019; Joseph Knight seconded the motion. The motion passed on a vote of 4 Yes, 0 No, 2 Absent (Kusnierz, Urban).**

7:10 p.m. Public Hearing: Zoning Change, 15 South Street, LLC

**Joseph Knight read aloud the public notice.**

Chairman Starodoj asked if anyone present wished to speak on the matter.

Paul Opalinski gave a brief history that the property was zoned Industrial until 2004, rezoned in 2012 as Downtown Commercial (DTC), due to a lease with Country Bank. Industrial zoning did not allow for offices, and current uses are light industrial, office and wholesale for grandfathered of American Athletic Shoe, some repacking, and Berkshire Blanket since the mid-90s. In September 2017, several emails to Rueben Flores-Marzan, Director of Planning and Community Development, to request the change to Mill Yard (MY). This was sent to the Board of Selectmen and was referred to Planning Board on February 5, 2019.

After a short discussion, the Planning Board members agreed to endorse this change.

**Ed Murphy made the motion to change the zoning of the named parcels from DTC to Mill Yard (MY) as noted in the legal advertisement, and to send to the May Town Meeting; Joseph Knight seconded the motion. The motion passed on a vote of 3 Yes, 0 No, 2 Absent (Kusnierz, Urban).**

Chairman Starodoj noted and read the letter of support for Caring Health Center, as drawn from a template from CHC.

**Ed Murphy made the motion to approve the letter of support for CHC; Joseph Knight seconded the motion. The motion passed on a vote of 3 Yes, 0 No, 2 Absent (Kusnierz, Urban).**

Chairman Starodoj noted letters of recognition to Chris DiMarzio and to Judi Mosso. All present members signed the letters.

7:30 p.m. Public Hearing: Special Permit (SP 2019-03) and Site Plan Review (SPR 2019-03), Application by MLR, LLC and Cedar Roots, LLC, 50 East Main Street

**Chairman Starodoj opened the Public Hearing.**

**Joseph Knight read aloud the public notice.**

**Chairman Starodoj appointed Jennifer Muche to the Special Permit and Site Plan Review Hearing.**

Chairman Starodoj informed the proponents that the Planning Board usually has 5 members and a Special Permit hearing must have 4 voting members, and the proponents had the choice to postpone or move forward. Rick Lotuff, from MLR, LLC, stated they would like to move forward.

Mary Lotuff Feeny, from MLR, LLC, read the narrative regarding location, zoning, Host Community Agreement, security systems, product delivery, proposed operational hours and compliance with Zoning §7.2.4, §7.4.7 and §4.8.8 (Attached).

Andrew Stoddard explained that the facility will be complete wholesale, with no retail allowed and strict adherence to Cannabis Control Commission rules and regulations. Chairman Starodoj questioned the anticipated number of local employees; Mr. Stoddard noted approximately 20% but is determined by who applies. Rick Lotuff noted that the intention is to use local plumbers and other contractors. Ed Murphy noted the need for qualified applicants. Ms. Feeny stated that there is a focus on opportunity for small business. Chairman Starodoj questioned if sampling would be done regarding industrial waste, and the need to coordinate with the Wastewater Department. Ms. Feeny noted the industry is still evolving with the hope this facility is a learning tool. Ed Murphy questioned the security plan; Ms. Feeny stated that they have discussed this with the Town Manager, Police and Fire Departments.

Chairman Starodoj noted the need to be clear that Nenameseck Square is not a park, but is in Open Space Plan as a park. Planning member Jennifer Muche asked about the loading dock and plan of procedures. Andrew Stoddard stated that unmarked vehicles following strict State rules for guaranteed safety. Rick Lotuff noted that trucks could back up to the dock but all loading must follow regulations as approved by CCC.

Andrew Stoddard also noted that the CCC can request video to review at any time, with product only leaving the facility in secured vehicles, with no waste products. Rick Lotuff noted that the secured dumpsters would be in the back.

Mr. Lotuff noted that the owners intend to beautify the area, clean exterior of the building, and maintain the whole mill yard. Chairman Starodoj asked about the windows; Mr. Stoddard explained that there will be a building within the building, as no light is allowed inside where the plants are “sleeping”. The first harvest may take 6 months or more.

Joseph Knight questioned the operational hours; Ms. Feeny noted that there would be no operations outside of the 8:00 a.m. – 8:00 p.m. and no retail use or hours. Andrew Stoddard explained that the operations are actually 24/7 (Spring) and when flowers are 12 hours on/12 hours off (Fall) with internal computerized security, and a back-up generator is not required. He noted that studies have shown that music is beneficial to the growing process. Ms. Feeny noted the operations would adhere to town bylaws for noise standards.

Chairman Starodoj suggested allowing operations for six months, with re-evaluation. Mr. Stoddard noted that the first grow would take at least six-eight months before fully operational. Jennifer Muche asked about whether the entrance would be the same as the children’s outlet. Rick Lotuff stated the handicapped entrance would be the first on the left, with another on the South Street side. A separate access door would be for the Hydro company, the elevator shaft is locked out, and traffic would not be heavy as there would be no retail.

Chairman Starodoj stated the concept of a written agreement from the property owners for insurance surety to place proceeds into escrow for removal of debris or to stabilize the site if any calamity were to occur. Ms. Feeny noted this was an intelligent request on the Planning Board’s part, and there is a requirement under CCC that the facility must have a takedown plan.

The Planning Board reviewed all items previously discussed. The Board further stated that the proponents submit a written request of waivers of any bullets in Zoning §7.45 for the next meeting on April 3, 2019.

**Chairman Starodoj closed the public hearing at 8:43 p.m., with the decisions of the Special Permit and Site Plan Review to be finalized at the April 3, 2019 meeting.**

Chairman Starodoj noted the Planning Board is awaiting the final list from Mr. St. George-Sorel, Interim DPW Director regarding Wildflower Drive. This must go to Town Meeting for acceptance.

**At 8:51 p.m., Jennifer Muche made the motion to Adjourn; Joseph Knight seconded the motion. The motion passed on a vote of 4 Yes, 0 No, 2 Absent (Kusnierz, Urban).**

*The next Planning Board meeting will be held Wednesday, April 3, 2019*

Attest: Mary L. Midura  
Mary L. Midura, Executive Assistant to  
Town Manager

Minutes Approved on: _____
R. Starodoj _____
J. Kusnierz _____
F. Urban _____
J. Knight _____
E. Murphy _____
J. Muche _____

## Memorandum of Petitioner in Support of Application for Special Permit

Special Permit Application for a Marijuana Cultivation Site (MCS)

50 East Main Street Ware, MA 01082

MRL, LLC (Property Owner) and Cedar Roots, LLC (Holds Host Agreement for MCS at this location)

**Plan Narrative:** Cedar Roots, LLC and its affiliates (Cedar Roots), proposes to be a state licensed, fully compliant Marijuana Cultivation Site located at 50 East Main Street, in the Mill Yard district of Ware, MA. The commercial property is owned by MRL, LLC. The space identified within the existing commercial building which is suitable for this use consists of 20,000 square feet on the second story and an additional 15,000 square feet in the Lower Level for future expansion. A long-term tenant is vacating this space as of March 31, 2019. There is an existing retail establishment on the first story. We anticipate this establishment, Ware Kids Outlet, will remain in their present location.

We anticipate a six to twelve-month timeline after provisional licensing from the state in order to build out the space with the necessary equipment for cannabis cultivation and manufacturing. Cedar Roots will adhere to all Cannabis Control Commission (CCC) regulations and all Ware permitting and licensing requirements and recommendations for operations, including security, fire safety, odor remission, waste disposal and community engagement. Cedar Roots plans to produce high end, quality cannabis products with a branding strategy that will bring recognition to the Town for this quality product. This enterprise will bring economic value to the Town through the Host Agreement commitments and through economic development that will result from a successful MCS in this location. Cedar Roots will follow all fire regulations put forth in 527 CMR and in Chapter 38 of the National Fire Protection Agency (NFPA) (2018). Maintenance of the interior and exterior of the property will be provided by Cedar Roots and by the property owner MRL, LLC.

Cedar Roots will meet the strict state-mandated security requirements for all licensed marijuana establishments, including state of the art, redundant security alarm systems, motion and video surveillance, keypad entry, and locked interior storage areas. Cedar Roots will follow the recommendations put forth by the Ware Police Department. All security and entrance to the site will be accessible by law enforcement and first responders. A copy of detailed Security Plan will be provided to the Ware Police Department and Ware Fire Department for review.

Product deliveries will be through an enclosed loading dock, either internal to the building or under exterior cover on the rear of the building. The building has multiple loading areas which could be used. The employees will use parking at the front of the building and enter the cannabis operation either via the front door to the building or via the loading area at south façade with keypad entry. As the proposed area of the building is currently used for manufacturing warehouse space, we do not anticipate a dramatic change to the flow of traffic with this change of use. Based on the production plans for the proposed cultivation and manufacturing uses and limits to the hours of operation, we

anticipate the peak traffic flow and use of parking spaces will be during normal business hours between 8:00 am and 8:00 pm. No additional parking is needed to support this special permit application.

Cedar Roots proposes to offer some educational classes in this area of expertise during normal business hours.

#### §7.2.4 Findings:

- A. The proposal is in harmony with the general purpose and intent of this Bylaw and it will not be detrimental to the health, safety or welfare of the neighborhood or the Town. The Town has issued a Host Agreement for this use at this location. The operations will be in compliance with the bylaws in effect.
- B. The proposal is compatible with existing uses and development patterns in the neighborhood and will be harmonious with the visual character of the neighborhood in which it is proposed. There is presently a manufacturing warehouse in the space proposed for the new use. Cedar Roots has held a community outreach meeting to share the concept with the public. The plan was received without objections. The Ware Kids Outlet plans to continue its retail operations in this location.
- C. The proposal will not create a nuisance to the neighborhood due to impacts such as noise, dust, vibrations, or lights. The lighting will be in accord with the bylaws at §6.3. It is anticipated that noise, dust and vibrations will not be of a level to have an adverse impact on the neighborhood.
- D. The proposal will not create undue traffic congestion nor unduly impair pedestrian safety, and provides safe vehicular and pedestrian circulation within the site. There are no proposed changes to the flow of pedestrian or vehicular traffic.
- E. The proposal ensures adequate space on site for loading and unloading of goods, products, materials and equipment incidental to the normal operation of the establishment or use. The building has multiple loading docks for this purpose. The change from the current use of textile manufacturing warehouse to the proposed use will result in a reduction of the loading and unloading of goods at this location. The size of the finished product and the scale of the operation limit the output.
- F. The proposal will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the proposed use or any existing use will be unduly subjected to hazards affecting health, safety, or the general welfare. The number of employees in the building at any one time will not change substantially. The cultivation and manufacturing activity will have a self-contained drainage system, which will repurpose the collected water back into circulation for the plants. The existing systems are adequate.

- G. The proposal minimizes environmental impacts including erosion, siltation, changes to the ground and/or surface water levels (quantity), or changes to the ground or surface water quality. No external changes to the building are proposed at this time.

#### §4.8.8 Review Criteria

The intent of this section is to “protect public health and safety, to regulate the siting, design and safety of the Marijuana Cultivation Sites (MCSs); to minimize adverse impacts on abutting properties; to provide adequate separation from schools, parks and other areas where children commonly congregate in an organized , ongoing formal basis; and to provide site security to deter crime and uphold the safety of surrounding neighborhoods.

- C. The special use permit requested in this application is for a Marijuana Cultivation Site (MCS).
- D. Host agreement with the Town has been approved and signed for an MCS at this location. A copy of this executed agreement is included with this application.
- E. Separation and Setbacks. See site plan. No park, playground, elementary, middle or high school, or state-licensed child day care center is located within 300 feet of this proposed establishment.
- F. Security Plan. Security measures will be in compliance with 935 CMR 500.110 Security Requirements for Marijuana Establishments. The plan is designed to deter crime, protect the public safety and protect emergency responders. The plan meets or exceeds state requirements established by the Cannabis Control Commission. Recommendations by Ware Police Department and Ware Fire Department will be incorporated into the Security plan.
- G. Standards applicable to MCS.
  - a. NA
  - b. The Site is in the Mill Yard (MY) zone. MCS are to be allowed by Special Permit and Site Plan Approval in the MY zoning district.
  - c. The proposed plan conforms to §7.2, Special Permits, §7.4 Site Plan Review and to the Mill Yard zoning district.
  - d. The proposed plan provides urban design and landscaping elements to harmonize the proposed project with abutting uses so as to protect and enhance the aesthetics and architectural look and character of the surrounding vicinity. No exterior changes to the building are proposed at this time.
  - e. The proposed plan addresses the potential outside odors from marijuana product production. State of the art air ventilation systems will be utilized to abate the odors known to be part of this process. Our odor mitigation plan will ensure that we minimize the occurrence of outside odors from our facility. This air ventilation, filtration system will meet or exceed all standards set for this use.
  - f. Signage shall be in conformance with §6.5 of the Zoning Regulations of the Town of Ware, as applicable. Cedar Roots will have signage for its main entrance and delivery entrance.
  - g. Hours of operation shall be between 8:00 am and 8:00 pm Monday thru Sunday.

h. Noise shall comply with the Noise Policy of the Commonwealth of Massachusetts Department of Environmental Protection and Division of Air Quality Regulations, 310 CMR 7.10, and any local noise abatement bylaw. We do not anticipate any activities pursuant to this permit which will challenge these regulations for noise.

i. We do not anticipate the Planning Board needing a traffic study or parking analysis for the proposed use at this location. The number of private parking spaces available on site and the number of public parking spaces along the sidewalk on East Main Street in front of this property well exceed the proposed demand for parking. We predict the demand for parking will be less than 16 spaces at any one time for this use on the lower level and top floor of the building. Wilton's Children's Outlet has approximately 15,000 GSA and therefore requires 17 spaces per Table §6.1.1.A. The property has at least 48 parking spaces within its parking lot adjacent to East Main Street.

j. N/A. we do not propose to operate as a marijuana dispensary. Applicant asks that the Special Permit for the Marijuana Cultivation Site run with the property owner (MRL, LLC) as well as be personal to Cedar Roots. (Cedar Roots, LLC holds the Host Agreement with the Town of Ware for the purpose of operating a Marijuana Cultivation Site at this location).



#### 7.2.4 Findings

The Special Permit Granting Authority may grant special permits for certain uses or structures as specified in the Use Table (§4.2) and elsewhere in this Bylaw. Before granting a special permit, the Special Permit Granting Authority, with due regard to the nature and condition of all adjacent structures and uses, shall find all of the following conditions to be fulfilled:

- A. The proposal is in harmony with the general purpose and intent of this Bylaw and it will not be detrimental to the health, safety or welfare of the neighborhood or the Town.
- B. The proposal is compatible with existing uses and development patterns in the neighborhood and will be harmonious with the visual character of the neighborhood in which it is proposed.
- C. The proposal will not create a nuisance to the neighborhood due to impacts such as noise, dust, vibration, or lights.
- D. The proposal will not create undue traffic congestion nor unduly impair pedestrian safety, and provides safe vehicular and pedestrian circulation within the site.
- E. The proposal ensures adequate space onsite for loading and unloading of goods, products, materials, and equipment incidental to the normal operation of the establishment or use.
- F. The proposal will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the proposed use or any existing use will be unduly subjected to hazards affecting health, safety, or the general welfare.
- G. The proposal minimizes environmental impacts including erosion, siltation, changes to ground and/or surface water levels (quantity), or changes to ground or surface water quality.
- H. For Multi-Family development, the following findings must also be made:
  1. The proposed project is not out of character with the area in which it is located;
  2. The parking facilities are located away from the areas along the public street(s), or are integral to the buildings (i.e. garages); and
  3. The proposed project does not increase the Average Daily Traffic (ADT) of roads within the general area by more than 10 percent in any given year, nor reduce the Level of Service at intersections within the same area to less than a "C" standard as determined by a professional traffic engineer.
- I.

- I. For Large Scale Retail Sales and Service, the following findings must also be made:
  1. The access roads, utilities and site drainage are designed in accordance with the Planning Board's rules and regulations governing subdivision; and
  2. The proposed project does not increase the Average Daily Traffic (ADT) of roads within 1,000 feet of the site by more than 20 percent of any arterial, 30%

of any major collector, or 35% of any minor collector, nor reduce the Level of Service at intersections within the same area to less than a "C" standard as determined by a professional traffic engineer.

#### 7.2.5 Conditions.

The Special Permit Granting Authority may impose in addition to any other condition specified in this Bylaw such additional conditions as it finds reasonable and appropriate to minimize impacts on abutters, safeguard the neighborhood, or otherwise serve the purposes of this Bylaw. Such conditions may include but are not limited to the following:

- A. Dimensional requirements greater than the minimum required by this Bylaw.
- B. Screening of parking areas or other parts of the premises from adjoining premises or from the street by specified walls, fences, plantings or other devices.
- C. Modification of the exterior features or appearance of the structure.
- D. Limitation of size, number of occupants, method and time of operation, and extent of facilities, or duration of the permit.
- E. Regulation of number, design and location of access drives, drive-up windows and other traffic features.
- F. Regulation of off-street parking or loading beyond the standards required by this Bylaw.
- G. Requirements for performance bonds or other security.
- H. Installation and certification of mechanical or other devices to limit present or potential hazard to human health, safety, or welfare of the Town or of the environment resulting from smoke, odor, particulate matter, toxic matter, fire or explosive hazard, glare, noise, vibration or any other objectionable impact generated by any given use of land.

**7.2.5 Conditions.**

*The Special Permit Granting Authority may impose in addition to any other condition specified in this Bylaw such additional conditions as it finds reasonable and appropriate to minimize impacts on abutters, safeguard the neighborhood, or otherwise serve the purposes of this Bylaw. Such conditions may include but are not limited to the following:*

- A. Dimensional requirements greater than the minimum required by this Bylaw.*
- B. Screening of parking areas or other parts of the premises from adjoining premises or from the street by specified walls, fences, plantings or other devices.*
- C. Modification of the exterior features or appearance of the structure.*
- D. Limitation of size, number of occupants, method and time of operation, and extent of facilities, or duration of the permit.*
- E. Regulation of number, design and location of access drives, drive-up windows and other traffic features.*
- F. Regulation of off-street parking or loading beyond the standards required by this Bylaw.*
- G. Requirements for performance bonds or other security.*
- H. Installation and certification of mechanical or other devices to limit present or potential hazard to human health, safety, or welfare of the Town or of the environment resulting from smoke, odor, particulate matter, toxic matter, fire or explosive hazard, glare, noise, vibration or any other objectionable impact generated by any given use of land.*

*Site Plan Approved 7.4.7*