



TOWN OF WARE

Planning & Community Development

126 Main Street, Ware, Massachusetts 01082

t. 413.967.9648 ext. 120

Zoning Board of Appeals

Meeting Minutes from

December 1st, 2021

Select Board Room, Town Hall

Board Members Present:

Lewis Iadarola (Chair), Chuck Dowd, Jodi Chartier

Staff Present:

Rob Watchilla - PCD Director

Alex Ziter – PCD Assistant (Remote)

Anna Marques – Zoning Enforcement Officer

Public in Attendance:

Claudia Kadra

PLEDGE OF ALLEGIANCE

Chairman Lewis Iadarola called the meeting to order at 7:00 pm and led the Pledge of Allegiance.

ADMINISTRATIVE

Motion to accept the meeting minutes from October 28th 2021 made by Jodi Chartier, Seconded by Chuck Dowd. All in Favor. 3/0/0³. Approved.

Motion to resend the acceptance of the meeting minutes for further review made by J. Chartier, Seconded by C. Dowd. All in Favor. 3/0/0². Approved.

NEW AND OLD BUSINESS

Zoning Bylaw Changes

Agenda Changes

- L. Iadarola requested a switch of order to the agenda items, wishing to discuss Earth Removal/Processing first before Cannabis (marijuana).

Earth Removal/Processing

- L. Iadarola reads memo he wrote regarding the addition of language within the earth removal section of the bylaw which states that "signs, flags, poles, fences, walls and other small constructs less than 100sqft in footprint on a property are not considered structures."

- L. Iadarola referred to a previous occurrence when attorney's claimed that the existing bylaws can currently be interpreted otherwise, and he suggested that the language about structures should be altered to be less vague.
- Robert Watchilla stated that the prior department director had ongoing edits to the bylaws which has similar language, and that he would attempt to merge the two suggestions for definitions and change of language within the earth removal section.
- Anna Marques stated that the issue was the clarity of definitions such as "structures" within the bylaws, which can be interpreted differently within different sections. She suggested a clear definition or note should be established for each use of the term "structure" within sections.
- R. Watchilla mentioned another addition which is an exemption regarding excavation and grading needed for construction, within 100ft of the proposed principal structure, or roadway to access the structure.
- R. Watchilla brought up another suggested addition to bylaw section D in 4.8.5. regarding language stating property boundaries and excavation to slope, grade, and or construction of structures within 50ft are not permitted unless special consideration is granted with written consent by the abutter and super majority vote of the Planning Board; or special permit.
- L. Iadarola read a memo which included his preferred definition for earth processing within the context of the bylaw. He stated that "it shall be defined as a processing of 1000 cubic yards, on site, or brought in to store within a twelve month period. Earth processing should be by special permit only, and may require a site plan review by the Planning Board. Earth processing, due to noise, odor, fire, traffic safety, and other considerations shall be limited to industrial zones only."
- R. Watchilla mentioned many municipalities differentiate between sizes of earth processing use. Stating that there should be language which includes both portable, small scale processing operations, and larger more industrial scaled operations within the bylaw.
- J. Chartier noted that if there was to be inclusion of earth processing within other residential zones, that there must be certain criteria met. Such as time of use during normal business operation hours, environmental standards, and safe storage practices.
- R. Watchilla suggested that earth processing would be better defined within the bylaws if the zoning use table is updated to include this use. So that the use table reflects the desired areas for this section element.

Addition to Agenda- Rules and Regulations

- L. Iadarola requested to discuss the addition of a rules and regulation section to the bylaw. This was brought up during a webinar regarding local board's role, in changing zoning bylaws. He stated that the webinar broke it down into two different categories for applying change. First, is structural change, which are inherent to the design of the bylaw, and the other is procedural change. For example, changing of the fees or requiring blueprints for plans would be procedural, and can be voted upon with two thirds majority.
- L. Iadarola suggested that "the Town of Ware shall allow the Planning Board and the Zoning Board of Appeals to adopt rules and regulations for procedural and substance matters directly, provided they are not consistent with the current bylaws. They shall be made majority vote and filed with the town clerk."
- R. Watchilla suggested that this addition be located at the beginning of the zoning bylaw document.

Cannabis (Marijuana)

- R. Watchilla suggested that there be a subsection addition to the intent section which should include language which states the scope or purpose of the bylaw section. Stating that a neighboring town has included language for improving reasonable protection to their scope & purpose section which says "To govern the time, place, and manner of RMFs & MCSs operations to ensure public health, safety, well-being, and to limit undue damage on the natural environment as it relates to cultivation, processing and manufacturing subject to the provisions of this Zoning Bylaw, MGL c. 40A (State Zoning Act), and MGL c. 94G."
- R. Watchilla suggested that there be an addition to the cannabis zoning bylaw section titled Resource Use Plan. This section states that "All marijuana cultivators and marijuana product manufacturers shall submit a resource use plan to the Planning Board to demonstrate best practices for use of energy, water, waste disposal, and other common resources, and to ensure there will be no undue damage to the natural environment. The plan shall include an electrical system overview, proposed energy demand and proposed electrical demand off-sets, ventilation system and air quality, proposed water system and utility demand."
- Alex Ziter elaborated on the reasoning for the inclusion of a resource use plan, which was to establish a baseline of data which can then be monitored to ensure establishments are meeting state and local energy and resource requirements.

- Claudia Kadra stated that she was aware that the wastewater treatment facility has a similar plan established, while J. Chartier followed this statement up by including a nearby town's issue with water use for an outdoor cultivation establishment. Bringing up concerns about operational behaviors which might impact the town's plans.
- R. Watchilla explained the definition of social consumption provided by the CCC which states "Social consumption shall be permitted by special permit in the selected Zones: provided, however, that on-site social consumption of marijuana or marijuana products, as either a primary or accessory use, must first be approved by a local ballot initiative process pursuant to MGL c. 94G, § 3(b). A marijuana retailer licensed to purchase marijuana and marijuana products from a marijuana establishment and to sell marijuana and marijuana products on its premises and to allow customers to consume marijuana and marijuana products on its premises only. Note this term is not defined in 935 CMR 500."
- J. Chartier and L. Iadarola stated their concerns of ensuring the public safety and wellbeing with these types of marijuana establishments. Mainly due to the lack of sufficient testing available for monitoring levels impairment, in comparison to alcohol consumption on site.
- R. Watchilla suggested that the board approve the addition of a language regarding outdoor open area cultivation facilities which aims to protect agricultural hemp farmers from cross pollination of crops.
- R. Watchilla informed the board about definitions which should be considered for this section, including a definition for "Craft Marijuana Cooperative" and "Microbusiness".
- A. Ziter elaborated on the meanings behind these definitions and the reasoning for including them in the agenda for the board to consider their position on them.
- R. Watchilla recommended to table the approval of these definitions, and revisit them upon further review.
- R. Watchilla stated the inclusion of language to better define "park" within the bylaw. Citing that many parks are passive in nature and are not providing active use, however the intent section with this language does not match the setback section.
- R. Watchilla stated that there is a need to bridge the gap between the two sections and better define the language to include the concerns of the board. They wish to include structures that support the congregation of children, and or sanctioned events.

Battery Storage

- R. Watchilla brought the topic of battery storage to the board's attention and addressed the lack of inclusion of this use within zoning bylaws throughout the Commonwealth. He presented information which was compiled by a regional planning agency regarding this use and suggested that the board be made aware of its future inclusion.
- J. Chartier suggested that a moratorium be placed on this use until more research and evidence on this have been established to allow for more research and procedural operations are developed to ensure that no adverse impacts will be caused to the community.

Junkyard/ Auto salvage

- R. Watchilla informed the board of the lack of language regarding junkyard/ auto salvage uses within the bylaw. He stated that the current Massachusetts general law prohibits any junkyard within 500ft of a state highway or road and 100 feet of town owned, with a provision of adding a 6ft fence if found to be no conforming to these area requirements.
- A. Marques brought to the attention of the board the concern of grandfathered in establishments and how to better address the issues of safety with any increase in current uses. Suggesting that annual reports be include to monitor the amount of vehicles which are being stored within the establishment.
- The recommendation from R. Watchilla and A. Marques is to include new language from the MGL for new establishments, and to clearly define the permissible behaviors for existing establishments to ensure no adverse impacts to the community.

Zoning Use Table

- R. Watchilla informed the board on issues with the zoning use table including the permissible use of adult entertainment establishments in all zones with a special permit. Additionally, there is a footnote (footnote #5) within the use table which states that amusement parks are permissible within the rural residential zone.

NEXT MEETING DATE: Thursday, January 13 at 7:00 p.m.

ADJOURN

Motion made by J. Chartier to adjourn meeting, Seconded by C. Dowd. All in Favor. 3/0/0.
Approved.

Minutes from December 1st, 2021
Respectfully submitted by,

Alex Ziter,
Department Assistant
Planning & Community Development

Minutes Approved on: 1/13/2022

Iadarola

Chartier

Hamel

Dowd

Eaton