



# TOWN OF WARE

Planning & Community Development  
126 Main Street, Ware, Massachusetts 01082  
t. 413.967.9648 ext. 120 / f. 413.967.9642

Planning Board

Meeting Minutes from

**Thursday, August 19, 2021**

Select Board Room, Town Hall

**Planning Board Members Present:**

Josh Kusnierz (Chair), Rick Starodoj, Ed Murphy (Remote), Ken Crosby, Joe Knight (Remote), Elizabeth Hancock (Alternate)

**Staff Present:**

Rob Watchilla, Director  
Stuart Beckley, Town Manager  
Anna Marques, Building Inspector

**Public in Attendance:**

Robert LeMaitre, Robert Barry, Megan Sinclair, Lori Sinclair, Nico Siniscalchi, Mark Jarvis, James Valeriani

---

## PLEDGE OF ALLEGIANCE

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

## ADMINISTRATIVE

- Approval of Minutes from August 5<sup>th</sup>.

There was a section left out regarding residents who wish to designate their road as scenic can petition to the Planning Board.

The approval of minutes from the August 5<sup>th</sup> meeting was postponed until the September 2<sup>nd</sup> Planning Board Meeting.

- General Announcement

J. Kusnierz announced to the public that the Planning Board had received a letter from concerned residents regarding the potential opening of a Marijuana dispensary near Veteran's Park. The letter states that the Board is aware that it is being asked to change its perception and clarification of the current zoning bylaw to allow for this project to proceed. Veteran's Park serves as a memorial to veterans who lost their lives in the line of duty. The current zoning bylaw

section pertaining to Marijuana Dispensary setbacks was established to protect children, residents, and the town. Provide adequate setback from schools, parks, and areas where children frequently congregate. The hope is that the Planning Board does not make any hasty decisions on their decision-making process.

**Motion** by R. Starodoj to authorize the Director of Planning & Community Development to act on behalf of the Planning Board in certifying or endorsing plans and other instruments that are required or authorized by the subdivision control law to be recorded with the registry of deeds or registered with the land court. Seconded by E. Murphy.

Roll Call Vote:

R. Starodoj	Aye
J. Kusnierz	Aye
K. Crosby	Aye
J. Knight	Aye
E. Murphy	Aye

All in favor. Approved 5-0.

## PUBLIC HEARINGS

- **7:10 PM SP-2021-05/SPR-2021-01: Minuteman Farm, LLC (Continued Discussion).**  
Applicant is requesting approval to construct a 7,700 square foot metal building to use as a Cannabis Growing Facility under Section 4.8.8, of the Zoning Bylaw, and pursuant to MGL Chapter 40A. The site is located at 24 East Main Street, Ware, MA. Deed recorded in the Hampshire County Registry of Deeds, Book 14057, Page 168. Assessor's Parcel 57-114-1. Zoned: Mill Yard (MY).

The applicant Richard Barry was absent from this hearing and was represented by Robert LeMaitre and Robert Barry. Minuteman Farm LLC is licensed by the Commonwealth of Massachusetts. The conservation commission is scheduled to visit the site at 24 East Main Street on Wednesday, August 25<sup>th</sup>, 2021 at 1 pm. This is carried out in order for the Conservation Commission to get reassurance that the project will not endanger any critical habitats or cause pollution to the Ware River. The Massachusetts Department of Environmental Protection (DEP) gave Minuteman Farm LLC their approval to carry out this project (according to the applicant's representatives). There is no known pollution on site according to a 21 E assessment done by the previous owner. The main water line is coming from the northeast portion of the building while going through the abutting properties.

A. Marques expressed her concerns about the integrity of the right of way located to the northwest of the property in discussion. There is a concern about large construction vehicles that would need to travel down this road in order to reach the site, but the road itself has deteriorated significantly with questions of structural integrity. She was also concerned by the

legitimacy of whether or not Minuteman Farm, LLC has the proper deeds stating that they can use an access road that runs northeast of the property.

The representatives of Minuteman Farm, LLC stated that they will maintain the deteriorating right of way. It was also stated that they only expect between 8 to 10 vehicles per day.

R. Starodoj mentioned that since this right of way is not a Town road, it is not the Town's responsibility to maintain it. Installing utilities and connecting to the site is not the Town's responsibility as well. It is up to the individual owners to figure out maintenance of roads within the Mill Yard complex.

Minuteman Farm, LLC has stated that it has rights to put in sewer lines along the property owned by Tim Smith.

**Motion** by R. Starodoj to approve SP-2021-05 & SPR-2021-01 under the following findings:

1. 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.
2. 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.
3. The proposal will not create a nuisance to the neighborhood due to impacts such as noise, dust, vibration, lights, or odors.
4. The proposal will not create undue traffic congestion nor unduly impair pedestrian safety, and provides safe vehicular and pedestrian circulation within the site.
5. 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.
6. 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.
7. 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.

And the following conditions:

1. If construction ceases to operate and the project is left incomplete, the special permit shall be null and void six months after construction has stopped;
2. Hours of construction shall be between 7am-6pm, 5 days a week, with half days on Saturdays. All major federal holidays will be considered off days as well;
3. Upon receipt, a copy of Minuteman Farm, LLC.'s provisional license is to be given to the Planning Board and the Director of Planning & Community Development;
4. All State and Local Zoning Bylaws, Building Codes and Regulations must be adhered to and all necessary permits be obtained;

5. Best Construction Practices will be used with regard to dust, noise, vibration and the site shall be kept in a neat and orderly manner during construction;
6. The Applicant will comply with all laws, regulations and requirements of the Town of Ware, Commonwealth of Massachusetts, and the United States of America, the strictest of which shall prevail;

Seconded by E. Murphy.

Roll Call Vote:

R. Starodoj	Aye
K. Crosby	Aye
J. Kusnierz	Aye
J. Knight	Aye
E. Murphy	Aye

All in favor. Approved 5-0.

END OF PUBLIC HEARING FOR SP-2021-05 & SPR-2021-01

- **7:45 PM SP-2021-07/SPR-2021-02: B'Leaf Wellness, LLC** is requesting approval to reuse an existing building as a Recreational Cannabis Retail Establishment under Section 4.8.8, of the Zoning Bylaw, and pursuant to MGL Chapter 40A. The site is located at 24 West Main Street, Ware, MA. Deed recorded in the Hampshire County Registry of Deeds, Book 4571, Page 153, and Book 7100, Page 71. Assessor's Parcel 60-0-151. Zoned: Downtown Commercial (DTC).

J. Kusnierz reads the legal notice before the public.

The applicant was represented by James Valeriani and Mark Jarvis. As stated, B'Leaf Wellness has modified its Host Community Agreement to change from 60 Main Street to 24 West Main Street. It is considered a small shop that caters to the local population. The building will be rented and the applicant has permission from the current owner to carry on with this Special Permit and Site Plan Review. The applicant will provide 8 parking spaces (5 required) including 1 handicapped space, all of which will be shared with the liquor store next door.

The applicant is requesting a waiver from incorporating the expansion of a 20 ft easement into 24 ft, since it lies between two building units. The applicant is also requesting a waiver from adding the required landscape buffers within the parking lot since the lot is entirely paved and landscape cannot be added.

The parking lot and building unit will remain the same with no new utilities or infrastructure upgrades. No additions will be added to the building. A battery rack backup will be used in the event of a power outage instead of a generator. It is anticipated that the business will see

12 vehicles per hour with 6 in and 6 out, it will most likely be higher on the weekends. Security upgrades need to be done and shared with the Police Department. No one under the age of 21 will enter the building and all patrons will be carded. The building will also have frosted security film to cover the façade windows for added protection.

The 20 ft easement was recorded into the deed since the owner owns all three parcels. The applicant felt, with this being the case, that they did not need to include its creation in their original plans. A condition set forth was that the 20 ft easement will continue to exist as long as B'Leaf continues to be there.

E. Hancock brought up the point that the zoning bylaw does not separate medical and recreational cannabis uses. There exists a Dance Studio across the street from 24 West Main St that is within 300 ft of the building. The board discussed whether the term "where children congregate" applies to the setback section of Marijuana special permit regulations in section 4.8.8 of the zoning bylaw. J. Valeriani stated that this is considered a void for vagueness. M. Jarvis exclaimed that since the Massachusetts Department of Public Health zoning language was changed and the state setback regulations are now set by the Cannabis Control Commission, the "where children congregate" language was dropped for vagueness.

S. Beckley announced to the Board that section 4.8.8 of the zoning bylaw was based on the Department of Public Health regulations and not the Cannabis Control Commission's. The Town attorney had concerns about stretching places "where children congregate" past schools. This permit may be brought up before Town Council.

R. Starodoj set forth conditions for if this application was approved:

1. 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.
2. 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.
3. The proposal will not create a nuisance to the neighborhood due to impacts such as noise, dust, vibration, lights, or odors.
4. The proposal will not create undue traffic congestion nor unduly impair pedestrian safety, and provides safe vehicular and pedestrian circulation within the site.
5. 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.
6. 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.
7. 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.
8. Hours of operation are to be between 8am to 8pm seven (7) days a week.

- 9. No bonds for security.
- 10. No odors or smoke resulting from the intended use.
- 11. No strobe lights to be visible from the street.

**Motion** by R. Starodoj to continue discussion of SP-2021-07 & SPR-2021-02 to the September 2<sup>nd</sup>, 2021 Planning Board meeting. Seconded by E. Murphy. All in favor. Approved 5-0.

**NEW BUSINESS**

- Public Comments

No public comments were brought up during the meeting.

**TOWN PLANNER UPDATE**

- Announcement of new Director of Planning & Community Development (Town Planner)

J. Kusnierz announced the new Director of Planning & Community Development to the public. Rob Watchilla had worked as the department assistant before being voted in as the new Director.

- East Quabbin Land Trust Tree Planting Program

The East Quabbin Land Trust is seeking to plant 1000 trees in Ware by 2023. They are working with the Planning & Community Development department to find suitable areas for these trees.




**Motion** by E. Murphy to adjourn the meeting at 8:54 pm. Seconded by R. Starodoj. All in favor. Approved 5-0.

The next meeting is scheduled for Thursday, September 2<sup>nd</sup>, 2021 at 7 pm.

Minutes from August 19<sup>th</sup>, 2021

Respectfully submitted by,

Robert Watchilla,  
 Director,  
 Planning & Community Development

<i>Minutes Approved on:</i>	9/2/21
Kusnierz	
Starodoj	
Knight	
Murphy	
Crosby	