



TOWN OF WARE

Planning & Community Development

126 Main Street, Ware, Massachusetts 01082
t. 413.967.9648 ext. 186 pcd@townofware.com

Planning Board

Meeting Minutes from

Wednesday, December 5, 2018

Board of Selectmen's Conference Room

Planning Board members present:

*Rick Starodoj, Chairman; J. Kusnierz, Vice
Chairman; Joe Knight, Clerk; F. Urban; Chris
DiMarzio (7:05 pm)*

Planning Board members absent:

E. Murphy, Alternate (excused)

Staff present:

*Rubén Flores-Marzán, Director of Planning &
Community Development
Judi Barnard-Mosso, Assistant to the Director*

Public:

*(as taken from the sign in sheet and
observation): Jean Ciukaj, Stan Ciukaj, Terrance
Smith, Keith Kruckas, Mary Van Zandt, Jane M.
Desjardins, Donald E. Desjardins, Greg Eaton,
Laurie Whitney, Alan Whitney, Joel Harder,
Cynthia Bergeron, Mike Biskup, Kirk Brown,
Frank Bicchieri (Bertin Engineering), Anna
Marques, Stuart Beckley, Eric Schwartz, John
Desmond, Tom Donahue (Barre), William St.
Croix, Paul Moryl, Bill Moryl, Megan Sinclair, Lori
Sinclair, Paul Opalinski, Tracy Opalinski, Andrew
Choquette, Mark Boronski, Jim Russell (MEDIA:
The Republican)*

Chairman R. Starodoj called the meeting to order at 7:00 p.m. Attendees said the Pledge of Allegiance.

1. **7:00 Public Hearing for proposed zoning amendments** – The Chairman opened the public hearing at 7:05 p.m. J. Knight read the legal ad into record; Chairman reviewed housekeeping items and the Board generally agreed that a meeting on January 2, 2019 is likely.

Please refer to document dated October 23, 2018, entitled Proposed Amendments Information Packet, and related sections therein.

In general, housekeeping amendments were accepted.

MARIJUANA CULTIVATION IN RR DISTRICT

- *Marijuana uses were often compared to large ground-mounted solar projects: proposed language is very specific for marijuana but not for solar. Board commented that if bylaw language is not restrictive, then it may as well be allowed everywhere*
- *Glad to see co-op language; greenhouse-only is restrictive as is requirement to be part of a co-op; greenhouse definition should be separate from the co-op definition (935CMR)*
- *Consider hybrid-style greenhouse*
- *Consider "marijuana cultivator" in definitions*
- *Farmers often lease land*
- *Consider nuisance complaints and how to handle them*
- *CMR allows different tiers up to 100,000 sf; discussion of what is reasonable*
- *Use limited tiers to prevent large businesses coming in*
- *Board is not suggesting large-scale grow operations; 5,000 sf should be sufficient in the RR zone*
- *T. Smith generally supported bylaw and said in general it was well thought-out; suggested that greenhouse size and lot size requirements should align*
- *What is process to ensure compliance with CMR?*
- *Chairman reiterated that it is the Board's intent for this amendment to specifically provide for small marijuana grow operations in the Rural Residential district ONLY, on a small scale; no large scale grow operations; the state inspects and the Board does not want to burden the Town; the Board is certainly not trying to supersede state regulations; when the Farm Bug co-op approached the Board, it was for small, indoor, growing areas – the Board does not want acres of buildings*
- *Community impact fee is to be addressed by the Board of Selectmen*
- *Is Ware a "Right to Farm" town?*
- *State does not consider cannabis an agricultural crop*
- *Marijuana items in the Use Table should be under its own heading*
- *Relating cultivation to Chapter 61A land is highly complicated and suggest removing the language related to Chapter land – state law requires that owners give up Chapter states in order to cultivate marijuana*

- C. DiMarzio stated that if Chapter land designation must be relinquished, then cultivation in the RR zone should not even be considered
- Suggest reviewing bylaws from Bernardston
- No comments from other municipal departments have been received as of tonight
- “farm” does not equal Chapter 61A land and vice versa
- Suggest change to eave height from 16’ to 18’
- W. St. Croix stated that he would like to open cultivation to businessmen and wants marijuana cultivation locally integrated
- Chairman reminded folks that the Rural Residential zone is residential
- Discussion of lot sizes and bylaws in other towns
- M. Biskup thanked the Board for tackling such a challenging amendment and recommended having 1-2 people to become better versed on the topic; 2.5 acres would be more than enough for him to be profitable; 2 greenhouses and he would be willing to give up the Chapter 61A designation for those 2.5 acres
- Odor comes from indoor cultivation
- Should not be in public view
- Some folks would like to grow outdoors
- Would not be allowed in Rural Quabbin district because most of that is state-owned land; legal notice was only for Rural Residential
- P. Opalinski stated he has property in the Downtown Commercial district and would like to be able to cultivate marijuana therefore the Board should allow cultivation in all districts
- To allow it everywhere would bring in “out-of-towners” and Board’s intent is to allow cultivation for resident property owners; make it pro-Ware
- Public hearing and legal notice is only to consider for Rural Residential zone so other zones are not up for discussion; after notice is published, language can be more restrictive, but not less (i.e. opening it up to other zones) because newly-affective people have not been notified

SOLAR

- Brief discussion about large ground-mounted solar arrays and setbacks
- Board and ZBA does not want to see solar parcels receive setback variances only to have the lots sold off creating nonconforming lots
- Moratorium should be for a full year due to the probably lawsuit from Ecos Energy and how extremely busy the 2-person (soon to be 1-person) Planning & Community Development Department is
- Board stated that we have a solar bylaw in place so the planning argument is moot
- J. Knight stated that solar impacts should be considered because of the many variables of large projects
- R. Starodoj read information about solar moratorium and resident complaints

- *T. Smith stated that farming and agriculture is in line with solar. If Ware is mostly rural, why exclude farmers from developing solar. A moratorium would “change the rules in the middle of the game”, it also goes against the state’s aggressive SMART program; solar provides a positive development impact in Ware*
- *Chairman reminded folks that it’s the Board’s duty to bring any amendments to Town Meeting where the decision is actually made*
- *Select Woman T. Opalinski stated that the 9-month timeframe was based upon public comment they received; she supported increasing buffers and setbacks. Residents want a bucolic setting yet state law allows for clear cut; Monson has implemented a moratorium and is also facing several lawsuits*
- *What other tolls can address residents’ concerns; a moratorium can vet out those tools*
- *It is rare to have a provision in a bylaw, then a moratorium on that provision, then a revision; we should just revise it without a moratorium*
- *The Town is protected under a moratorium (see T. Opalinski comment above)*

Chairman called for a recess is 9:39 p.m.

Chairman called to order 9:46 p.m.

Additional comments amendments for marijuana cultivation:

- *W. St. Croix supports cultivation with 5,000 sf per farmer. He gave the example of Charlemont where there is a 20,000 greenhouse with 4 bays 5,000 each and is leased to multiple people; he would like to see an equal opportunity*
- *M. Biskup suggested forming a committee with various interests represented*

OTHER

- *Proposed change to section 7.3.2.A was struck because the language was taken straight from MGL*
- *Providing economic impact is only required for Major site plans, not minor ones*

Motion by J. Kusnierz to continue the public hearing to January 2, 2019 at 7:05 p.m.
Seconded by J. Knight. So voted 5/0/0.

2. **Preliminary discussion: Mark Andrews, proposed self-storage at 167 West St**
Frank Bicchieri of Bertin Engineering informally presented the site plan to the Board:
- *Self-storage behind Walgreens*
 - *3 30x3000 buildings*

- Will have detention basins
- Already paved road access
- Cross easements for utilities
- Has a signaled intersection
- Will cut into hill
- Will install arborvitae screen from abutting residences
- Lighting at entrance will be shielded to prevent light spill
- Entrance will have pole-mounted pass and key-pass card kiosk (no staff)
- No water or sewer connections
- Hearing is Jan. 16

The Board had no comment at this time.

3. Administrative

- a. Approve minutes from November 7, 2018 – Minor changes made. **Motion** by C. DiMarzio to approve the minutes are revised. Seconded by F. Urban. So voted 5/0/0.
- b. Approve minutes from November 26, 2018 – Minor changes made. **Motion** by F. Urban to accept the minutes are revised. Seconded by J. Knight. So voted 5/0/0.

4. Discussion & Updates

- a. PVPC Delegate update – Josh and Joe will present information at the Jan. 2 meeting.
- b. 17 River Road (wording of Class III license) – the Board had no comment on the Board of Selectmen’s licensing and wording thereof.

5. Other

- a. Wildflower Drive - J. Kusnierz discussed Wildflower Drive, and the need to have brush cleared before DPW can plow and sand for this winter. Some residents are clearing the brush themselves (as opposed to road owner or developer). **Motion** by J. Kusnierz to have Town Counsel letter to bank to move forward and request bank to meet with the Planning Board and town officials and Town Counsel in order to re-establish responsible parties, punch list of outstanding items, and steps to possibly getting road approved. Seconded by F. Urban. So voted 5/0/0.

6. Adjourn – Motion by J. Kusnierz to adjourn at 10:27 p.m. Seconded by F. Urban.

Documents reviewed:

- *Proposed Amendments Information Packet*
- *November 7, 2018*
- *November 26, 2018*

Documents received:

- *none*

Minutes Approved on: _____	
<i>Starodoj</i>	_____
<i>Kusnierz</i>	_____
<i>DiMarzio</i>	_____
<i>Urban</i>	_____
<i>Knight</i>	_____

*Respectfully submitted by
Judith P. B. Mosso, MPA
Assistant to the Director*