

Minutes of Planning Board Meeting
Virtual Meeting via Zoom
January 25, 2022

Members Present: Judy Markland, Sara Cooper, Tom Litwin, Brant Cheikes
Hannah Davis (Town of Whately Staff)
Members Absent: Don Sluter

The meeting was held remotely, via Zoom.

Virtual Guests:

Mike & Gretchen Behta
Amy Bisbee, Williamsburg Planning Board
Beth Lukin
Troy Tanzer
John Smiarowski
Julie Beauchemin
Peter Gleason

Chris Larrabee
Chris Flory
Tom Reidy
Jim Farrick
Theresa Billiel
Wadham

I. Call to Order, 5:04 p.m.
The meeting was recorded.

II. Discussion of accessory apartment bylaw as it applies to plans for 159 Westbrook Road
Chair Pro-Tem: Brant Cheikes filled in for Chair Don Sluter tonight at Don's request.
Brant explained that Peter Gleason had been referred to the Planning Board by the Zoning Board of Appeals in connection with his plans for an accessory apartment at 159 Westbrook Road. Mr. Gleason then said that he had met with the ZBA at the beginning of the month for a very early discussion about converting an existing outbuilding on his property to an apartment. The ZBA had quoted the bylaw Terms Defined information, but all concerned found it a little confusing when they tried to apply it to the project in question.

Mr. Gleason said his existing structure is an old barn of about 480 square feet that has been on the property for more than five years. He is planning for an apartment of about 750 square feet, which is less than the 800 square foot limit. To achieve this he would have to expand the barn by 200 to 250 square feet, but expansion of the existing structure is not allowed. He and the ZBA are asking for clarification.

Brant shared his screen to show the text of Whately Bylaws section 171-37, Terms Defined, which reads,

“ACCESSORY APARTMENT -- An additional dwelling unit consisting of no more than four rooms and no more than 800 square feet of living area in a single-family home or an accessory structure provided there is no expansion of square footage of any existing structure and the structure has been in place for at least five years. An additional dwelling unit of no more than 600 square feet may be added in a new structure. The

Accessory Apartment shall be occupied by no more than two people. The owner of the property shall permanently occupy the principal or accessory residence. Adequate off-street parking shall be provided and parking shall be to the side or rear of the principal structure to the maximum extent possible. [Added ATM 4-27-2010, Art. 12] [amended article 38 ATM 06.15.2021]”

Brant stated that Mr. Gleason wants to expand an accessory structure and have the entire accessory structure serve as an accessory apartment for no more than two people, with Mr. Gleason, the owner, occupying either the apartment or the main dwelling. Mr. Gleason confirmed that this is correct Brant asked other Planning Board members to comment.

Judy noted that the Planning Board drafts the bylaw documents and the Zoning Board of Appeals applies them. Sometimes, she said, something doesn’t quite fit and the ZBA asks the Planning Board about its intent. Judy said that, first, there was a bylaw to allow accessory apartments in existing barns, sheds, etc. to encourage more affordable housing. This bylaw did not include *new* buildings due to concerns about density. The bylaw also didn’t state *how long* the existing building had to be “existing” and the ZBA granted permits before the building was built, she said. When writing the amended version of the bylaw that was approved June 15, 2021, the Board allowed for accessory apartments in new structures but required them to be smaller, because of continuing density concerns. She suggested that the Planning Board could write a letter to the ZBA explaining its intent of limiting density.

Judy thought that Mr. Gleason’s project won’t add too much density, but she doesn’t think it is the Planning Board’s role to offer such *interpretive* opinions – even if they all agree. Tom and Sara agreed. It was noted that the existing barn is about 480 square feet. Judy concluded that if all Board members agree on the content, there is no need to have another Planning Board meeting about this – they can just write the letter about the Planning Board thought process, to clarify *intent*. Brant will work with Don and others on the letter; Judy will draft it and will send the draft to Mr. Gleason before sending it to the ZBA.

III. Floodplain bylaw update

Judy reported that she, Hannah, and Margaret Christie (of the Agricultural Commission) will meet Thursday about materials for educating the public re: the floodplain bylaw. Hannah noted that Scott Jackson (of the Conservation Commission) will also help. She added that they have been advised to maybe leave the checklist up to the applicant.

Hannah said they are now aiming for Annual Town Meeting at the end of April, adding that plans should include drafting the bylaw in time to post it for an educational meeting two weeks in advance, and advertising a public hearing to be held by late March (perhaps at the regular meeting on March 29). Usually, we shouldn’t wait until too close to Town Meeting in case the language changes, she said, but in this case we will be using the state’s template so there probably won’t be language changes. Sara commented that the permit check list will be useful for walking people through something they won’t be doing every day.

IV. 5:35 pm Public Hearing for site plan review for Greenjeans LLC proposed marijuana cultivation facility at 149 Christian Lane

(As an abutter to the subject property, Board member Sara Cooper has recused herself from participating in this matter).

Julie Beauchemin described the project as a self-contained family business on a six-acre property, and noted that the large field in the back will remain planted in vegetables. She shared her screen to show the plan approved by the Zoning Board of Appeals, noting that the required Community Information Meeting had been held last year and that the Host Community Agreement had been filed with the Selectboard in September.

Ms. Beauchemin described features shown and labeled on the plan, explaining that there used to be three greenhouses but that two have collapsed from the weight of snow. They plan to move Greenhouse No. 4, and demolish and replace Greenhouse No. 5. Pointing to a grayed-out fence, she said it was there to prevent cultivation in the areas shown, as required by the setback provision of the zoning bylaw. She said there are no wetlands involved. Two gates, one on the north side and one on the south side, provide for snow removal and for cameras to monitor access, she said, noting that Fire Chief John Hannum is comfortable with the design of both the driveway and the fencing.

Judy asked about security and odor, and Ms. Beauchemin gave the following information:

Security

Greenjeans Farm submitted a lengthy security plan. One community concern was cameras pointing into abutters' property. A local security consultant experienced in the installation of security measures walked the site and determined that cameras only needed to point into the inside fenced area.

Lights will be aimed downward only, and access to all doors within the fence will require a key card.

Odor

They have decided against using the iodine spray solution previously described. Instead, they plan to use carbon filters (with carbon pellets), with two exhaust fans for each greenhouse.

Brant asked for any comments from the public. Mike Bechta was concerned about the new building – the metal barn and its fifty-foot containment zone – and asked how it would be determined that it didn't go outside the line during construction, and how it would be remedied if it did. Julie Beauchemin replied that during construction the fifty-foot setbacks will be staked. They will also have an "as built" plan that they will have to adhere to, so the building will be manufactured to those specifications, she said. "Jim" used the chat room feature to ask about fan noise. Ms. Beauchemin said she expects the fans to sound like house fans – although they may be audible within the fifty feet, they won't noticeably increase the general farm noise. Someone asked whether the fans would run all the time, even when cannabis was not being grown, as there were still concerns about hums, etc., keeping people awake at night. Ms. Beauchemin answered that they would run all the time, to ensure proper air circulation for the plants and for odor control. There would be four to six basket fans for the tobacco, with no exceptionally loud noise. Asked whether she had any information on the specific fans, she said

no, she hadn't seen any, and it might be hard to get that. She noted that the exhaust fans will be on the east side of the building ends, with intake on the west ends.

After asking for any other questions from the public or from the Planning Board, Brant stated that no more questions or comments had come in. Brant then addressed dual use, asking whether it was true that the current owner wants cannabis cultivation but also wants to establish tobacco seedlings. Julie Beauchemin replied that, yes, greenhouses 1, 2, and 3 were used this past year for tobacco. She explained that the landowner wants the farm to keep its flexibility and doesn't want to have to shorten the buildings because if anything were to prevent Greenjeans Farms' project completion they would be stuck in the future with shortened buildings. Brant then asked how they would keep cannabis cultivation within the fifty-foot setback but still use *more* space for tobacco. He was told there will be a permanent, in-ground, hard barrier to keep marijuana in bounds while allowing access for tobacco work.

Julie Beauchemin explained that they hope to start construction this summer, for four months, assuming all permits are in hand. Then would come inspection. They hope to start growing by the end of 2022, she said.

Judy noted that the plan says the new barn will be used for manufacturing and processing, and asked for confirmation of that. Ms. Beauchemin said yes. Judy said she doesn't think processing is allowed under the ZBA's special permit. Attorney Tom Reidy, of Bacon & Wilson, read from the bylaws:

~ 171-28.6 Adult Use Recreational and Medical Marijuana Establishments

[Amended 4-24-2018 Article 41]

B. Definitions

"Marijuana Cultivator - an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers."

He said that Greenjeans Farm would not sell retail, but only wholesale. They would only process the marijuana to make it suitable for wholesale in its flower form. Brant agreed that it seemed to be a straightforward application of the definition from the bylaw.

Brant screen-shared the ZBA approval conditions. He confirmed that the plan which the Planning Board is discussing tonight matches the dates and revisions approved by the ZBA.

Brant then screen-shared a document dated 11/24/22 and headed:

Whately Planning Board Site Plan Review Approval Conditions Status

Applicant: DMTC Site address: 7 River Road

The document pertains to the Debilitating Medical Conditions Treatment Centers marijuana cultivation project. Ms. Beauchemin and Mr. Reid were told that the following language of the final condition is consistent across applicants:

"In the event of complaints of excessive offensive odor, the Planning Board will have the ability to require additional mitigating conditions as economically practicable to be undertaken at the applicant's expense."

Tom Reidy stated that the language is acceptable to the applicant.

The discussion turned to planted screenings, with Judy confirming the desirability of hiding the formidable stockade fence and the chain link fence as well, with the aim of breaking up the sight line. Julie Beauchemin shared the plan again for this discussion. She explained that the owner needs access all year for tractors and trucks, to get in for vegetable harvesting. Brant and Judy agreed that it may not be possible to do much planting. Judy withdrew her request for screen plants. Jim Farrick, an abutter, said he would appreciate any planting that could be done, but asked whether it could be enforced. Other abutters used the chat feature to express their agreement.

Julie Beauchemin explained that they must plow snow on both sides, and added that state inspectors will say that in such a narrow lot people could hide in the plantings – so rip them out. It was suggested that if the goal is to screen the view of the imposing eight foot stockade fence, to improve the view for the neighborhood, it might be possible to achieve some of that by changing the fence material and/or color. Ms. Beauchemin said they would consider changing to such materials as black vinyl, or chain link with green fabric. Abutters used the chat feature to comment that they would prefer to see photos of fencing choices, including cedar. A number of various other comments resulted in the decision to continue the meeting in order to settle the landscaping question, which is the main sticking point now. Points for the next meeting include:

- Options to screen *any* type of fence, and if no screening is possible, which type of fence option will be least visually offensive
- Information on the type of fan you are likely to use – considering energy efficiency as well as noise production factors such as air flow measured in cubic feet per minute
- Brant will send an idea of what the Board is looking for to break up the length of fencing.

Brant moved to continue the hearing to the next regular meeting date (February 22, 2022) at 5:15 pm. Tom seconded. Tom, Brant, and Judy each voted Yes, and the motion carried unanimously (as an abutter to the subject property, Sara is recused from voting on this matter). At 6:55 pm, the hearing session was closed.

V. Public hearing on technical change to large-scale solar bylaw

A Whately resident has submitted a request for a zoning bylaw change. The requested change involves amending the large-scale solar facility bylaw to reduce setbacks for sites located in the Commercial/Industrial district. The Planning Board agreed to schedule a public hearing on this matter for the next regularly scheduled Board meeting on February 22, 2022 at 6:00 pm. Judy will send the secretary the legal notice wording for Recorder ad placement.

VI. District Local Technical Assistance (DTLA) Funds

Research into risks of large-scale battery storage for solar power generation facilities.
The Zoom connection terminated before any discussion could be held.

VII. Adjournment

At 7:01 pm the Zoom connection terminated. Brian confirmed via Hannah that the meeting was now adjourned.

Documents Reviewed (kept in the Planning Board files)

1. The text of Whately Bylaws section 171-37, Terms Defined, “ACCESSORY APARTMENT
2. A plan for Greenjeans LLC proposed marijuana cultivation facility at 149 Christian Lane, headed...

149 CHRISTIAN LANE
(ASSESSORS MAP 20 LOT 27)
SITE DEVELOPMENT PLAN SET
LOCATED IN WHATELY, MA

SEPTEMBER 28, 2021
(REVISED NOVEMBER 13, 2021; NOVEMBER 29, 2021)

1. COVER SHEET
2. SITE PLAN
3. DETAILS
PATRIOT Engineering

3. The text of Whately Bylaws:
 - ~ 171-28.6 Adult Use Recreational and Medical Marijuana Establishments
 - [Amended 4-24-2018 Article 41]
 - B. Definitions
 - Marijuana Cultivator

Mary McCarthy
Secretary, Planning Board
Town of Whately, MA