

Minutes of Planning Board Meeting
Town of Whately, MA
Town Hall, Chestnut Plain Road
January 26, 2021

Members Present: Don Sluter, Nicholas Jones, Judy Markland, Sara Cooper, Tom Litwin

Members Absent: none

The meeting was held remotely, via Zoom

Zoom Guests:

Tony Wonseski, engineering firm SVE Associates

Jared Glanz-Berger, Whately RE Holdings

I. Call to Order, 5:00 p.m.

The meeting was recorded.

Chair Don Sluter was delayed, and the board discussed the background of zoning changes.

II. Public Hearing, continued from December 15, 2020.

Continuation of public hearing to discuss approval of a common driveway on Hannum property (parcel 18,lot 9) on Masterson Road

At 5:15 pm Judy Markland reopened the hearing; Don Sluter arrived a few minutes later. Tony Wonseski explained that applicant Whately RE Holdings needs a continuance because it hadn't yet been able to change the site plans to their final version, pending further discussions. He said a meeting with the Conservation Commission is scheduled for next month. Also, he said they received a letter from the Division of Fish and Wildlife's Natural Heritage program confirming that their project would not cause interference with the environment. Mr. Wonseski said that Natural Heritage is ready to approve the project except for some concerns regarding land across the street, and that they are fine with the common driveway aspect of the project. He added that they are still working with the Mass. Department of Environmental Protection regarding the subdivision aspect.

Tony Wonseski explained that he had met with the ZBA, that town counsel had written an opinion that they are not allowed to make two flag lots from one parent lot, and that they will not challenge that. They had planned for two flag lots and a frontage lot, he said, and have now eliminated the frontage lot, leaving one flag lot and a standard lot. He added that other state work should not affect the local boards.

Mr. Wonseski requested a continuance to next month. Don moved to continue the hearing to the regular Planning Board meeting date of February 23, 2021, and Brant seconded the motion. Don, Sara, Judy, Tom and Brant each voted yes, and the hearing was continued unanimously.

III. Discussion of zoning bylaw revisions:

MA floodplain bylaw

Although the state will permit the town to use the 1979 digital flood maps for the bylaw implementation, Judy said that continuing to use 40-year old flood maps makes her uncomfortable. There are newer ones, she said, but they aren't available digitally. She noted that Cynthia (in the Assessors office) has a hard copy. Don will check with a contact at UMass about getting a copy, and also said he may be able to take Cynthia's copy to UMass to convert to digital format. He will check with Cynthia about picking it up.

Judy also noted the need to determine an enforcement officer, and to put this matter on the application for DLTA funding help from the Franklin Regional Council of Governments (FRCOG).

Marijuana bylaw

Regarding indoor cultivation, Judy suggested changing its definition to "anything grown in a structure that has heat, a filtration system, and lighting". Brant queried whether the intent of the definition change was to expand it to include hoop houses. Judy said that to the contrary, it was to restore the bylaw to what was intended in its original drafting, that any fully enclosed cultivation should be considered indoor and subject to more stringent odor control. Jared Glanz-Berger said that to the state, indoor and outdoor is solely determined by whether supplemental horticultural lighting (not ordinary lighting) is used; that it is horticultural lighting that makes a growing operation "indoor".

Judy also suggested removing the prohibition on having a residence in a marijuana facility, saying that it often makes sense to have a manager living there. The discussion points included

- whether the occupant must be an employee
 - Inside the perimeter, it would probably have to be.
 - We should require that the occupant have *some* affiliation with the facility.
- whether children could be prohibited from living there
 - Unclear; we might not even know about them.
 - What if the house is not within the secured area? What about minors then?
 - Maybe say, OK for children to live there as long as they have no access to cannabis.
- Anyone living in the secure area wouldn't be able to invite people to the house without a CORI check.

Judy noted that it would be impossible to enforce any of these qualifications and recommended against including them.

Judy will draft wording for proposed changes; the board will discuss and approve the wording and then hold public hearings on them prior to Town Meeting.

Jared Gantz-Berger will contact Brant about how to get the Mass. Cannabis Control Commission regulations for study.

3.

The bylaws discussion continued, and included these points about the site plan review process:

- The need to add the Agricultural Commission to the list of those boards and committees that receive site plans for review
- The lack of continued need for seven or eight hard copy sets of site plans, since digital seems adequate. Four, or at least three, sets of hard copies may be enough (for the Planning Board, the Town Clerk, and extras for the town offices). The wording should be changed to state that the boards and committees must receive “copies”, without specifying hard or digital.

IV. Other matters

The board discussed the recent problems of zoning enforcement by the Building Inspector and possible solutions. Don will contact Town Administrator Brian Domina to ask what authority within the town the Planning Board would use in order to review building permit applications prior to issuance, and to discuss the general problem with the goal of solving it. Judy will prepare a list of problem situations.

Expansion of the commercial zone was also discussed. It was noted that the area along Route 5 is not just Whately's only commercial space, but is the most sensible place for commercial. Also noted was the possibility that commercial expansion may be impossible to stop as Whately becomes more of a bedroom town, since residents will want more shopping opportunities. However, much of the land is wetland and the remainder in residential use and homeowners would likely oppose the tax increases inherent in being rezoned commercial. Judy suggested that encouraging mixed use zoning as had been recommended in the 2011 Open Space Plan might be better. It was suggested to wait until the proposed bylaw changes have been written before addressing this topic.

Judy suggested asking for some FRCOG help with two items: the flood plain work and large scale battery installations at solar facilities. The deadline for submitting the application is February 5. The matter was approved. Judy will send the completed form to Don, to give to Brian.

V. Adjournment

At 6:45 pm Brant moved to adjourn and Sara seconded. Don, Judy, Sara, Tom, and Brant each voted yes, and the motion carried unanimously.

Mary McCarthy
Secretary
Planning Board
Town of Whately, MA