

Whately Planning Board  
Minutes of Virtual Meeting  
October 25, 2022

Present: Members Don Sluter (partial), Judy Markland, Sara Cooper, Tom Litwin, Brant Cheikes  
Members Absent: none

The meeting was held remotely, via Zoom.

Virtual Guests:

Keith Bardwell, Whately Highway Superintendent

Tim Smith

Chris Chamberland, Berkshire Design

John Hanmer, DMCTC

Jared Glanz-Berger DMCTC

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

The meeting was recorded.

**II. Public Hearing: Application by Tight Line Properties LLC to establish a landscaping company office at 83 State Road**

The hearing was opened at 5:07 pm. No company representatives were in attendance. While waiting for them, Brant shared and read from letter from the Whately Historical Commission, dated October 18, 2022, which asked that if site plan approval is granted the board will include the following language as a condition of approval:

“If any archaeological artifacts or remains are found during excavation, renovation and/or construction, all work should cease immediately to allow review by qualified experts in prehistoric or historic archaeology as appropriate. This process, which would be undertaken at the expense of the applicant, would be guided by the Whately Historical Commission.”

Brant also shared a letter from Beyond Landscaping, dated October 13, 2022, attesting that the company had obtained state approval for a curb cut on State Road, which belongs to the state. He shared the project’s site plan, dated January 13, 1990, onscreen and observed that the lot comprises 60,276 square feet. It was noted that the minimum required is 60,000, and was further noted that an extra extension of the lot had probably been done to ensure compliance with the law. The board discussed the project and there were no questions or comments from the public. Judy noted the need for septic system approval from the board of health, and that lighting should point downward. Tom said the project seemed straightforward and Sara agreed. Brant said that his review of the plan had found nothing amiss, but that the board still needed to hear from other boards and committees. Brant said he had checked the property’s appearance on Google Street View, that it looked good, and that he saw no need for landscape screening unless an abutter thought otherwise. Sara noted that there is a house across the street but that no abutters were in attendance.

At 5:21 pm there were still no applicant representatives at the meeting and Brant closed the public hearing. He shared the Site Plan Review Form onscreen and filled in the approval conditions, including:

- 1) Receipt of approval from other appropriate boards and commissions.
- 2) Receipt of septic system approval from the Whately Board of Health.
- 3) Exterior lighting must be oriented downwards, in order to minimize light pollution and any adverse impact on abutters.
4. If any archaeological artifacts or remains are found during excavation, renovation and/or construction, all work should cease immediately to allow review by qualified experts in prehistoric or historic archaeology as appropriate. This process, which would be undertaken at the expense of the applicant, would be guided by the Whately Historical Commission.

Judy moved to accept the Site Plan subject to the above conditions and Tom seconded. Judy, Tom, Sara and Brant each voted Aye, and the motion carried unanimously. Brant will check with the town clerk regarding who can sign the Site Plan Review Form in Don's absence.

### **III. Approval of the Historical Commission's Request for a standard site plan approval condition.**

Judy asked whether there was any objection to making the Historical Commission's language reviewed earlier in the meeting standard as a site plan approval condition. There were none. Tom moved to accept the language and Sara seconded the motion. Tom, Judy, Brant and Sara each voted Aye, and the motion carried unanimously.

### **IV. Public Hearing: Application by DMCTC to install horticultural lighting for indoor marijuana cultivation in its 7 River Road greenhouses.**

At 5:31 Brant opened the hearing. Christopher Chamberland shared onscreen a site plan prepared for Debilitating Medical Condition Treatment Centers, Inc. (DMCTC), originally dated August 13, 2020 and revised on October 19, 2020, February 26, 2021, May 7, 2021, and August 9, 2022. An additional notation reads, "September 27, 2022 (Reissued without Revision)". Project engineer Chris Chamberland said that tonight's site plan drawing is the same as the most recent version of the subjects and that the board has seen them before.

DMCTC is permitted as an Outdoor Marijuana Cultivator. They now want to add an Indoor Marijuana Cultivator permit so they can engage in "The growing of marijuana inside any greenhouse or any other fully enclosed structure and any subsequent drying of marijuana in such a facility", as he read from the definition of Indoor Marijuana Cultivation in the Whately Zoning Bylaws.

Mr. Chamberland said Greenhouse I is built and ready to grow plants, and that Greenhouse II will be built within no more than two more years. He also noted that the project will need a special permit from the Zoning Board of Appeals in order to satisfy the Massachusetts Cannabis Control Commission.

Mr. Chamberland's comments included:

- New landscape screening
- The police department has been active at the site and seems satisfied with the arrangement. DMCTC will leave it to the police chief to decide whether the planned guardhouse is really necessary.
- DMCTC will update the driveway if Keith Bardwell requires it.
- Since proposed changes to the project are minimal, compliance of this plan is almost identical to what was proposed before.
- No change to exterior lighting
- Interior lighting will be covered with full blackout curtains operated automatically.
- Odor control was originally designed for fully loaded greenhouses, and so will easily handle expanded production; fans will simply run a little more frequently.
- Energy efficiency – Lighting and Density of Power. The important part is, how much power is used per square foot of plants? 26W/sq ft is their number. Additional math yields *Total* power of 36W/sq ft, and that is the exact standard for what the state specifies.
- Peak daily use of water will not change.

Brant called for comments and questions from the public, and especially from abutter Tim Smith and Highway Commissioner Keith Bardwell. Tim Smith said that new blackout curtains have solved the nighttime light problem for him, but that the northern driveway edge has traffic turning across some of his property – because of how trucks turn. Keith Bardwell stated that the pre-existing driveway did not conform with regulations near the road. He said the project's changes are substantial enough that the driveway should now be made to conform by maintaining at least a 20 ft setback from the property line along its entire length, and that this can be done by moving the driveway a little to the south, away from the northern property line. Mr. Bardwell also said the driveway needs a paved apron to keep gravel and broken pavement from working its way into the travel lane. The apron can be installed by hand with no machine required, he said, adding that this will help solve the problem of truck encroachment on Tim Smith's property, too. Chris Chamberland and Jared Glanz-Berger had no objection to this, and Brant confirmed with Keith Bardwell that the regulations are available on the town website.

Brant asked for other comments from the public; there were none. Sara asked if alternative energy sources are being considered for the future and Chris Chamberland said a small solar array is intended to stay but the exact future use of the house it was unclear, as well as how much of the property is farmland or wetlands and should remain as that. Judy mentioned that besides power *availability* the board needs information on the project's power *usage*. John Hanmer responded that they must constantly make power usage adjustments as day length varies over the year. In the summer, when sunlight is abundant, power usage may be just two hours per day. In December, when sunlight is limited, 18 hours of power per day may be used.

Judy observed that this is a big increase over the existing energy use, and that the bylaw strongly urges that at least 50% of any additional use be generated onsite and that agricultural land can't be ruled out since the bylaw encourages dual use solar on agricultural parcels. She added that since the legislature now allows power to be shared among multiple parcels, it may be possible to build solar arrays on another parcel owned by DMCTC and that their Sugarloaf Shoppes property has a large roof facing south.

Brant asked what DMCTC had done to make sure the local electrical grid can support its needs without making the abutters' lights flicker. Chris Chamberland said Eversource is not shy about denying electrical service to a project if they can't support it. Jared Glanz-Berger said they have already paid for electrical upgrades between No. 3 and No. 7 River Road that will benefit everyone. It was necessary for the installation of 3-phase wire to those addresses, for freezer containers. He added that the 3-phase wire had already been run to Nourse.

Judy told DMCTC that the board wants more information on projected energy use. Jared Glanz-Berger argued that the state standards are meant for inside buildings that don't have any sunshine coming in. Since greenhouses use the sun, they're already better than other buildings, he said. Judy repeated that the board needs more information on projected *use*, not just the capacity. DMCTC will return in a month with the required information. John Hanmer and Chris Chamberland both said they were clear on this.

Tim Smith said odor is there but then gone, and has not been overpowering, as he'd feared. Everything's fine, he said. Sara asked for confirmation that as an indoor cultivator with greenhouse lights, DMCTC will now have crops in harvest during all twelve months of the year. She was told that yes, there would be more odor production – but only from where odor is controllable and containable.

The hearing was continued to Tuesday, November 29, 2022 at 5:05 pm, and DMCTC was told that the board will expect to see more details about the energy use program, ideas for creative ways to comply with the bylaw regarding local energy use offsets, and site plan drawings revised to show corrected driveway details. John Hanmer was clear on this, Jared Glanz-Berger had no questions about it, and Chris Chamberland understood the board's assignment.

As Larry Brotherton had joined the meeting on behalf of Tight Line Properties/Beyond Landscaping, Brant explained that the hearing had been scheduled for 5:05 pm and that the application had been approved earlier with conditions. He shared the conditions list onscreen. Larry Brotherton said lighting would not be a problem because motion sensors would operate them and hours of operation would be 7:00 am – 5:00 pm. Brant will let Mr. Brotherton know when all documents are available for pickup.

Don Sluter joined the meeting at 6:38 pm.

**V. Public Hearing: Discussion: proposed revisions to the Whately Subdivision Regulations § 234-5. Plan believed not to require approval affecting ANR submittal requirements.**

At 6:41, Brant opened the hearing. Because the draft of the proposed changes was not readily available, the hearing was continued to November 29, 2022 at 6:00 pm.

**VI. Approval of minutes**

Review of draft minutes for July 26, 2022

Tom moved to approve as amended and Sara seconded the motion.

Tom, Sara, Judy, Don and Brant each voted Aye, and the motion carried unanimously.

Review of draft minutes for August 30, 2022

Sara moved to approve as amended and Don seconded the motion.

Sara, Tom, Don and Brant each voted Aye, Judy abstained, and the motion carried by majority.

Review of draft minutes for September 27, 2022

Don moved to approve as amended and Sara seconded the motion.

Don, Sara, Tom, Judy and Brant each voted Aye and the motion carried unanimously.

**VII. Items unanticipated**

Tom asked for the status of the Selectboard's letter to Building Inspector Jim Hawkins about the Monahan property. Brant said he had requested it but hadn't yet received it. He'll ask again.

The board discussed a request that when the Planning Board incurs invoices, typically for publication of newspaper legal notices for its own public hearings, Whately staff be provided written Planning Board payment authorization that includes a "wet ink" signature. Sara volunteered to handle such authorizations once the secretary reviews the bill in each case and provides her with a copy of the correct invoice. She will then sign and deliver the paper invoice for payment.

**VIII. Adjournment**

At 7:05 pm Judy moved to adjourn and Tom seconded the motion. Sara, Tom, Judy and Don each voted Aye, Brant abstained, and the motion carried by majority.

*Documents Reviewed (kept in the Planning Board files)*

1. A letter to the board from the Whately Historical Commission, dated October 18, 2022.
2. A letter to the board from Beyond Landscaping, dated October 13, 2022.

6.

3. A plan of land dated January 13, 1990 and titled

Plan of Land in  
Whately, Massachusetts  
Prepared For  
Andrew Gianino and Roger Shattuck

4. A plan of land titled

Site Plan for  
7 River Road  
Whately Massachusetts  
Special Permit Set

Prepared For:  
DMCTC, Inc.

Prepared By:  
Berkshire Design Group

and originally dated August 13, 2020 and revised on October 19, 2020, February 26, 2021, May 7, 2021, and August 9, 2022. An additional notation reads, "September 27, 2022 (Reissued without Revision).

Mary McCarthy  
Secretary, Planning Board  
Town of Whately, MA