



approved
5-22-18

Town of Carver, Office of Planning and Community Development

Planning Board Meeting Minutes, April 2, 2018, Carver Town Hall, Meeting Room #1. This meeting was videotaped for cable cast area 58, channel 15.

Attendees: Bruce Maki, Chairman; James Hoffman; Kevin Robinson; William Sinclair

Also Present: Stephen Cole, Planning Director; Amy Kwesell, Town Council

Absent: Chad Cavicchi

Bruce Maki, Chairman, opened the meeting at 5:26 PM, followed by the pledge of allegiance.

Special Public Hearing for consideration of proposed Zoning by-Law and Map amendments

Zoning Amendment #4

To amend the Town of Carver Zoning by-Law for purposes of regulating recreational-use marijuana establishments within the Town, including establishments for the cultivation, processing, testing, product manufacturing and retail sale of recreational-use marijuana establishments, which uses shall be allowed pursuant to the issuance of a special permit and site plan approval within a designated marijuana overlay district:

Mr. Cole – The Cannabis Control is ready to begin now. The Town of Carver does not currently have a by-law. The law is available for review. Ms. Kwesell – With recreation marijuana, an establishment consists of many different areas. This overlay has some local controls that have to somewhat follow the state regulations. The state has buffer zone which states an establishment can not be within 500' from a K-12 school. The town can increase but not decrease. We have increased the buffer zone a little bit and included "where children commonly congregate." The cultivation/processing facility can only be located within a permanent building. They have to adhere to dimensional requirements and town sign regulations. The state is very strict with signage; no leaf logo, etc. This will only be allowed by special permit. This requires that the Board gets a copy of emergency and waste disposal procedures; a copy of all licensing materials. Hours of operations, no outside odors, provide zoning enforcement and police with contact available 24 hours per day. Recreational marijuana facilities need a Host Community Agreement, which is negotiated with the Board of Selectmen (i.e. extra police support). This Board needs to remember when

issuing a special permit, we have to mesh with the Host Community Agreement that is negotiated. On site consumption is prohibited. On site consumption can't be put into effect until 2019. The Governor has already filed an amendment to postpone this further. Mr. Maki – There is a map here but it is difficult to tell exactly where these areas are. How did we come up with these amendments? Mr. Cole – We mirrored the medical marijuana overlay district. We thought it best that it would be proper to start here; as the town has already reviewed this. Mr. Maki – Any other towns in the area done this? Mr. Cole – Not that we are aware. We are doing this to protect ourselves. Abutting towns need to notify us if there are any by-law changes. Ms. Kwesell – We have been following recreational marijuana since its inception. It was not well thought out by legislature. We have been tracking their draft and final regulations to come up with this overlay by-law. Lakeville is presenting a similar overlay by-law. The easier part is that we already had an overlay for medical marijuana. Mr. Maki – So we are using that exact area? Mr. Cole – Yes. Ms. Kwesell – At town meeting, we recommend that both of these articles be voted on. We will incorporate language to cover the change of dates on the moratorium. Mr. Hoffman – So this is just to set up an overlay district to cover ourselves so we don't have to do it later? Ms. Kwesell – Yes. Mr. Hoffman – What's the overall feeling, will this be a reality? Ms. Kwesell – Yes. A couple of minor changes (in the delivery system). Mr. Robinson – These are our rules? Mr. Maki – Correct. Ms. Kwesell – If a recreational facility wanted to open in Carver, there are several steps to get a full license to operate. 5:42 PM - Mr. Sinclair arrived – Mr. Sinclair – Mr. Cole, we are mimicking the same boundaries. Amendment 5, moratorium date extension until 6/30/19. We are asking the Board to vote on both of those amendments. Mr. Maki – This is very thorough. Mr. Sinclair – Ms. Kwesell, this by-law being presented; how does it coincide with state regulations on recreational marijuana? Ms. Kwesell – We don't have a lot of flexibility with our regulations.

Comments from the Public -

Mr. Savery Moore – could you describe where the areas are? Mr. Cole – They are largely in Industrial A; Maps were shown to Mr. Savery Moore.

Mr. Maki – What are the parcels in Red? Mr. Cole – That is unrelated to this and is Industrial B.

Mr. Maki – At Tremont there is a subdivision there; Are those parcels residential? Mr. Cole – I am unfamiliar with that area. Mr. Maki – Any other questions? Mr. Savery Moore – Are these properties available for purchase? Mr. Cole – I am unaware of any.

Ms. Kwesell - If it's not available; it doesn't mean it won't become available. If the zoning is there, it is available. Mr. Cole – While attending SRPPED I learned that they can co-locate medical and other. Ms. Kwesell – Yes but need to be divided by a wall; they can share testing labs in the back.

Ms. Jen Bogart – Without seeing a detailed map; I live in the area of Kennedy and they are part of Cranberry Village and zoned industrial; This is a dense residential village. Mr. Maki – The area off of Tremont street and an area off of the easterly portion; this is the existing area for medical marijuana. Ms. Jen Bogart – Yes but vastly different uses.

Mr. Sinclair – Is there a sense of urgency to close this out tonight? We've always taken information provided; comments from Board Members and the public, take time to review and then put in our recommendations for town meeting. Then we could get more clarification on the map and recreational marijuana areas. Ms. Kwesell – The Board could limit the number of permits by (over 20% of the number of full package stores in town). This would give the Board the ability to limit the recreational permits only, not medical. Mr. Robinson – first come first serve? Ms. Kwesell – Yes. Mr. Sinclair – So, if we were a dry town? Ms. Kwesell – We would have to allow one. Mr. Sinclair – We need to know that number and include in this document.

Mr. Savery Moore – In all of this discussion, has there been any study on the potential tax benefits to this town with recreational marijuana facility here? If we have one and Middleboro have 5 then they would make quite a bit more than Carver. Mr. Cole – No study has yet been done. As a new industry, we can't predict what the sales will be. Ms. Kwesell - The town will vote on a 3% sales tax. Mr. Cole – Harder to gauge where it is recreational. Mr. Sinclair – The 3% sales tax should be in this document? Ms. Kwesell– No that has to be voted on at town meeting. Mr. Sinclair – To bring for a vote at town meeting; can we dedicate to certain programs? Ms. Kwesell– No, but the Host Community Agreement allots for that (only for recreational). The Selectmen would negotiate that. Mr. Sinclair – How do we make sure that our governing body doesn't miss anything with the Host Community agreement? Ms. Kwesell – Automatically in the agreement (1.5%-3% tax). Mr. Cole – Town meeting is on April 24th. If this hearing would be continued when would we have to wrap it up? Ms. Kwesell– You could work right up until the day before. Mr. Maki – This outlines the storefronts but also the growing. Do they usually grow their own? Ms. Kwesell– It depends on the size of the properties; its more economical if they can do it all in that one building. Mr. Maki – Plants are always grown inside? Ms. Kwesell -YES. Kevin Yenulevich – Do they have a limit of what they can do? Ms. Kwesell– The Cannabis Control Division controls what they can sell. Mr. Hoffman – If they grow on site, they have to be licensed by the Cannabis Control Division. Ms. Kwesell– The regulations are 200+ pages and the process will be very rigorous. Mr. Hoffman – What we are discussing will be on the town warrant? Mr. Cole –Yes, we are creating the overlay district and the moratorium. Mr. Sinclair – Where the state has just ratified these new laws; if we were to choose to just do the extension of the moratorium; it will give us another year to see how the state regulations develop; define the map better; hours of operations, etc., would this be an issue? Ms. Kwesell– You would have a moratorium until 6/30/19. Mr. Sinclair – this would give us some time to be better informed and we can better define things. Ms. Kwesell– I don't anticipate regulation changes between now and June 30, 2019, without significant amendments to the statute. The only downside that I could see is perhaps missing out on some tax but you would still be open to medical marijuana and a Host Community Agreement. Mr. Sinclair – I am uncomfortable voting tonight. There is a lot of work that has gone into this but at a minimum, I need another meeting. I don't want to rush this. Mr. Maki – I would like to look more carefully at the overlay areas. Let's put this off until our next meeting; we can still look at amendments 1, 2 and 3. Our next meeting will be on Monday the 9th.

*Motion to continue the Public Hearing for the amendment of article #4 to 4/9/18 at 7:00 PM: Mr. Sinclair
Second: Mr. Hoffman
Approved: Unanimous (4-0)*

Zoning Amendment #5

To amend Section 4970 of the Town of Carver Zoning by-Law by extending the temporary moratorium on non-medical or recreational marijuana establishments in the Town through June 30, 2019:

To amend Section 4970.2 temporary moratorium “the moratorium shall be in effect to June 30 2019 or until such time that the town adopts Zoning by-law amendments approved by the attorney general that regulate recreational marijuana establishment which ever come first.

No public comments

Motion to recommend zoning amendment # 5 be on the warrant for town meeting with language recommended by town council: Mr. Sinclair

Second: Mr. Hoffman
Approved: Unanimous (4-0)

Zoning Amendment #1

To amend Section 3347 of the Town of Carver Zoning Bylaw to allow artificial lighting “up to 20 feet” in height:

Mr. Cole – Currently, in pedestrian areas, lighting shall not be more than 11’ in height and 15’ in height in parking lots; engineers are proposing 20’, which does not cause issue on concern. Mr. Maki – So 20’ or less? Mr. Cole – Yes, it would allow the Board to approve poles not in excess of 20’. Mr. Maki – Do these pertain to public schools; library’s, etc.? Mr. Cole – Yes, we should strive to do that; the last two required a waiver.

Mr. Sinclair – We have this issue with an applicant now, regarding the height of lights. “All parking facilities shall be lighted as even and fully as possible” This has to be better defined. A photo metrics and lighting plan should be provided. We need something more specific. Mr. Cole – That language appears in the present zoning language. Staff would support any defined changes; adding Mr. Sinclair changes would not be a problem. Mr. Sinclair – it allows this Board to set a parameter. Our engineers will be able to say if it meets specific requirements.

Comments from the Public –

Kevin Yenulevich – Is this for new installations and/or updates? Mr. Sinclair – It would only be when an application is received for a facility, they would have to abide by this by-law. Existing facilities would only come before us if doing a major renovation.

Motion to continue zoning amendment #1 until 4/9/18 at 7:00PM: Mr. Sinclair

Second: Mr. Robinson

Approved: Unanimous (4-0)

Zoning Amendment #2

- To amend Section 2230, Use Regulations Schedule to include “battery storage” by right in the RA, HC, GB, VB, V, GBP, IA, IB, IC, AP, SSID zoning districts:

Mr. Cole – The dept. received an inquiry (new industry) – It has to be adjacent to power transfer lines. It will charge at some times and release power back other times. It could be important for stabilizing our grid. As by right, it could in a few years, have a residential application to help with power losses. It is a smaller footprint than solar. Not having this we would lose \$5- 10 M on this project and require them to go to adjacent communities. Mr. Maki – Amend this to special permit; we ran into issues with solar. Mr. Sinclair I wouldn't see any reason why this should be in a village district. There is another product out there now making its way east for residential. I would be a lot more comfortable with a special permit. Mr. Maki – If you could explain this battery storage? Size? Location? Mr. Cole – This is several cells contained in a butler framed building with a fire suppression system. Mr. Sinclair – That it pretty much it. In the residential application for those with solar at their house now; they look like the inverters. They are another way of providing up to 10 hours of back up power. The commercial / industrial end is what Stephen described. Mr. Cole – These must be proximate to the power lines. The power lines traverse all districts in our community. Mr. Robinson – This would be voted on that would be part of electrical systems and solar systems. This is because of allowed use for those zones? Mr. Sinclair – Yes. I don't think there is enough information out there to develop the by-law just yet. Mr. Robinson – which is why a special permit is the way to go.

Comments from the Public -

Cornelius Shea– I agree with the need for a special permit; include size limits as well; 75,000 sq. ft. is a very sizable facility; this technology is coming but should be looked at on a case by case basis. We have to address safety issues as well. We don't want these facility popping up everywhere. Mr. Sinclair – I recommend that we change to be all by special permit by planning Board.

Jen Bogart – If the objective is to get it on the chart, is it not allowed now? Mr. Cole – Unless explicitly stated as an allowed use, in our town, it is not allowed. Ms. Jen Bogart – Is there something that is in the works? Mr. Cole – We periodically receive calls; this was a call that came in and I felt it was something that should be reviewed. Ms. Jen Bogart – My understanding is the batteries do not help the town and would be stored and used elsewhere? Mr. Cole – I am not sure of there business plan; for our community, it would contribute tax and help with stabilizing the grid; which would entice others to come here. Ms. Jen Bogart – But they wouldn't benefit carver; my understanding is there is really not an issue with stabilizing the grid. Putting these facilities in will only help the tax base. I think this needs to be approached with caution. Maybe a restricted use until proven concept? Mr. Maki – I think we are thinking of it as just a business. Mr. Cole – Yes, I don't necessarily think that it was proposed as a power support for this town. This is a "for profit" business. Ms. Jen Bogart – I don't think having a bunch of battery storage facilities fits in with the characteristics of this town. Mr. Maki – If we do put this on our regulations schedule, we don't have anyone currently interested. We would have to come up with regulations for it. It doesn't have to be

an unsightly building. If the town voted to put on the schedule and someone approached us before regulations are in place, how would we handle it? Mr. Cole – We would handle it as a special permit application and site plan review. Ms. Kwesell – I am not sure it would be subject to Site Plan Review without a trigger. A general special permit could be required.

Any comments? None Heard

*Motion to allow to be put forth to Town Meeting, Zoning Amendment #2 with change "by special permit by the Planning Board": Mr. Sinclair
Second: Mr. Hoffman
Approved: Unanimous (4-0)*

Comments from the Public –

This meeting was advertised as beginning at 5:00PM and running to 7:00PM - There is some concern from the public that the meeting started late. It is now 7:00PM, there is still one uncovered topic and some would now have to leave for another appointment. Should the remainder be put off until the next meeting? Mr. Hoffman – There are still people here; let's discuss and not vote on it until the next meeting.

Mr. Maki – We will discuss, but not vote on, Amendment 3.

Zoning Amendment #3

To amend Section 3580 of the Town of Carver Zoning Bylaw, Large-Scale Ground Mounted Solar Photovoltaic Installations, by adjusting setback distances in Section 3580.25.1 and adding a sub-section "Nuisance" to Section 2580.50, Abandonment or Decommissioning":

Proposed Change -

Section 3580.25.1 shall read (strikethrough text to be deleted bold text to be inserted):
3580.25.1. Setbacks. For LSGMSPI, front, side, and rear setbacks shall be at least 50 feet on the applicant's property; provided, however, that where the lot **abuts a residential property, the setback to the nearest residential structure must be 300 feet.** ~~is located in a Residential-Agricultural district, the setbacks shall not be less than 200 feet on the applicant's property. LSGMSPI shall be provided with 200 foot setbacks on all lot lines abutting the Residential-Agricultural district, regardless of the zoning designated for the proposed site.~~ Vegetated screening shall be provided for a minimum of 50% of the specified setback. **The Planning Board may reduce the setbacks to a distance not less than 50 feet provided the LSGMSPI can achieve 100 percent screening to abutting and adjacent properties.**

With additional sub section 3580.50.1 Nuisance -

Any LSGMSPI which has been abandoned consistent with Section 3580.52 of this by-law and not removed within 120 days after the date of discontinued operations and/or is not maintaining required screening pursuant to the Bylaw shall be considered a nuisance and detrimental to the neighborhood. The Town may enter the property and physically remove the installation. The costs for the removal may be charged to the property owner and/or owner of the LSGMSPI. In addition to the foregoing remedy, whoever fails to remove an abandoned LSGMSPI shall be liable to a fine of not more than one hundred dollars (\$100.00) for each violation. As an alternative, the enforcing authority may utilize the non-criminal disposition procedure under Article XX of these by-laws. The penalty under the non-criminal disposition procedure for each violation shall be one hundred dollars (\$100.00). Each violation shall constitute a separate offense. Each day that any such violation continues shall constitute a separate offense.

Mr. Cole – What is represented, you have two possible arrays. Currently need 200' set back from property line. Two arrays would require 2 – 200' setbacks. If the intent is to obscure the solar array I present an alternative. This would give the residents 300' (more space).

Mr. Sinclair – Is this the recommendations from the sub committee working on this? Mr. Maki – We had one meeting and we looked at it but I don't think we recommended anything at that meeting. Mr. Sinclair – The 200' buffer was very explicit in the solar committee. I want to make sure this Board has special granting authority. Regarding the second scenario with 50' setback from residents or 300' overall; if I had a residential dwelling that was 150' away from the property line, it would move the solar array pretty close to property line? Mr. Cole – The dimensional setbacks can be relaxed to help screen solar array from abutter. Mr. Sinclair – It's important that we maintain that buffer. Ms. Kwesell – the minimum set back did not change; the solar company has to maintain a minimum of 50' from property line. The Planning Board may reduce the 50' provided that they can achieve 100% screening. Mr. Sinclair – If this Planning Board allows that, what is the screening? Is it natural, stockade fence, etc.? I would want language to specify natural. Mr. Cole – It does specify plantings, etc. This is also in the original by-law. Mr. Maki – This is at the discretion of the Planning Board? Mr. Cole – Screening parameters must be done. Mr. Hoffman – We are recommended 300' from structure? Ms. Kwesell – Yes but with 50' to property line. Mr. Hoffman – We've always talked about property line; not sure I like Structure? Mr. Sinclair – Residential "structure" for clarification, would a shed be considered a "structure?" Ms. Kwesell – No, it would not. The revision protects the residential structure. If you had an empty lot, it is still enjoying that protection. If you have two installations next to each other you have a large unutilized area. Mr. Cole – This is intended to protect the resident. When this Board receives applications, we will scrutinize to make sure the screening meets requirements. Mr. Maki – This would enable us to grant a waiver if needed. Mr. Hoffman – My only issue is with the word structure. Mr. Maki – I don't think this adversely affects anyone. Mr. Hoffman – Does this supersede the existing by-law? Ms. Kwesell – Yes. 300' from structure with 50' setback to property line, with 100% screening. You can reduce the 300' to 50' minimum setback each or 100' with 100' screening. Mr. Sinclair – My impression was that in this scenario we could waive the 100% screening. Toward a residential structure they would have to maintain buffer. Ms. Kwesell – This was drafted with residents involved; you are looking to have the ability to waive screening for two abutting arrays. Mr. Robinson – I look at this and see it making it better and farther away.

Mr. Maki – If you have a resident and you are going 300' from resident and the resident is 250' from the property line, this would allow the array to be 50' from property line where it is 200' now. If we approve this, then we lose the 200' setback. Ms. Kwesell – Why don't you do some options? You could keep it 200' from property line. Mr. Maki – I would like to keep the 200' setback; with ability to look at each one individually. Mr. Robinson – Regardless it should be 200' when it comes to residential. Mr. Maki – Right now, we don't have the authority to grant a waiver; this would allow us to look at topography, screening, etc. Mr. Robinson – If we left it as is (200' on property line), but incorporate that the Planning Board may reduce to not less than 50'. Not sure screening is necessary. Ms. Kwesell – "adequate screening". Mr. Maki – This way we could look at it individually. Mr. Sinclair – This will give the Planning Board special granting authority? Ms. Kwesell – The Planning Board can reduce setbacks to property line to not less than 50' (each).

Language was agreed upon by all Members and Town Council. Mr. Maki – Do the Board Members want to see this written up and presented at the next meeting? Yes. Mr. Sinclair – Yes, we also want the audience members that had to leave to be able to see it.

Public Comments –

Ms. Jen Bogart – Clarified her understanding of a 200' buffer to any array. Mr. Maki - Yes, but each case will be reviewed individually.

Allan Germaine – Abandonment and decommissioning – This will be an issue down the road! Technology and advancements will cause abandonment. Mr. Sinclair – The town has a bond for decommissioning and abandonment on every one that is in town. Mr. Germaine – In our neighboring town, there is an owner of a solar array that the town of Middleboro can not get a hold of (several months). There is a problem with the array and the town does not have the authority to do anything. Mr. Sinclair – In the Town of Carver, the PPA agreement has those provisions, maintaining site standard, etc. We have a 30 day to reply, then we can take action and pull that bond.

*Motion to continue Zoning Amendment #3 until April 9, 2018 at 7:00: Mr. Sinclair
Second: Mr. Hoffman
Approved: Unanimous (4-0)*

The complete text of the proposed amendments and zoning map are on file with the Carver Town Clerk, 108 Main Street, Carver, MA and are available for viewing during normal business hours of:

8:00 AM – 4:00 PM on Monday, Wednesday, Thursday; and/or
8:00 AM – 7:00 PM on Tuesday; and/or
8:00 AM – 12:00 PM on Friday:

Adjournment:

*Motion made to adjourn at 7:56 PM: Mr. Sinclair
Second: Mr. Robinson
Approved: Unanimous (4-0)*