

PUBLIC MEETING NOTICE
POSTED IN ACCORDANCE WITH THE PROVISIONS OF M.G.L. CHAPTER 30A, SECTION 20B

PLANNING BOARD MEETING AGENDA

April 9, 2018

7:00 PM

Carver Town Hall Room #1

Approval Not Required Plan:

1. Eugene Cobb, - South Meadow Rd. and Old South Meadow Road (Assessors Map 116 Lot 1-15) **Discussion and possible vote**

Sign Permit:

2. "Carver Foot Spa", - 300 Tremont Street, Suite 2

7 PM Public Hearing (continuance)

3. On the application of Edaville Land Holdings, requesting Site Plan Approval pursuant to Section 3100 of the Carver Zoning By Law, for property located at Pine Street in Carver, MA.

Plans prepared by Arthur F. Borden and Associates, Inc., dated November 2, 2017, showing the paving and associated drainage on an existing parking lot, on two sheets for said development.

DRAFT ZONING AMENDMENTS – 2018

4. Please see attached sheet on Zoning Amendment Articles

Other Business

- A. Planning Board Member Notes
- B. Planning Director Notes
- C. Minutes – March 27, 2018
- D. Next meeting date:
- E. Adjournment



TOWN OF CARVER

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DRAFT ZONING AMENDMENTS - 2018

ZONING AMENDMENT 1:

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

Section 3347 shall read (strikethrough text to be deleted bold text to be inserted):

3347. All artificial lighting shall be not more than ~~eleven (11)~~ **twenty (20)** feet in height in pedestrian areas, and ~~fifteen (15)~~ **twenty (20)** feet in parking lots, and shall be arranged and shielded so as to prevent direct glare from the light source onto any public way or any other property. All parking facilities which are used at night shall be lighted as evenly and fully as possible. The Planning Board shall require the applicant to provide the type and wattage of all proposed lighting for the parking areas.

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 subsection "Nuisance" to Section 3580.50, Abandonment or Decommissioning".

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.**

Every abutting property shall be visually and acoustically screened from the installation through either existing vegetation or new plantings of not less than 8 feet in height at the time of planting staggered at a spacing of no more than 8 feet apart throughout the required setback dimensions. All required plantings shall be maintained throughout the project's life, and replaced as necessary. As an alternate to providing the required screening through vegetation, it is acceptable to increase the

setback to 600 feet on the applicant's property while providing an acceptable alternate screening such as a stockade fence and single row of vegetation in close proximity to the project.

The provided screening shall obscure from view on all sides at least 50% or 100% if the project is located in the Residential-Agricultural zoning district, of the project from adjacent properties, including upper levels of existing structures at the time of construction, within three years of the start of construction or earthwork activities. Security fences, roadways, and equipment shall not be placed within the required setback, except for that which is required to access the site from an adjacent roadway, or to transmit the generated power to the grid. Access roads and transmission lines shall be placed in such a manner as to not create an unobstructed view of the project from adjacent property lines.

Section 3580.50.1 Nuisance shall be inserted as follows:

Any LSGMSPI which has been abandoned consistent with Section 3580.52 of this bylaw 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 bylaws. 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.

ZONING AMENDMENT 4:

To amend the Town of Carver Zoning Bylaw 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.

Section 5000 shall be inserted as follows:

Section 5000 – Marijuana Overlay District Bylaw

Section 5000.1 - Purpose

To provide for the placement of Non-Medical Marijuana Establishments, in accordance with An Act To Ensure Safe Access to Marijuana, c.55 of the Acts of 2017 and all regulations which have or may be issued by the Cannabis Control Commission, including, but not limited to 935 CMR 500.00 implementing this Act, in locations suitable for such uses, which will minimize adverse impacts of Non-Medical Marijuana Establishments on adjacent properties, residential neighborhoods, schools, playgrounds, public beaches and other locations where minors congregate by regulating the siting, design, placement, security, and removal of Non-Medical Marijuana Establishments.

Section 5000.2 – Establishment

The Marijuana Overlay District (“MOD”) is established as an overlay district. The boundaries of the MOD are shown on the Zoning Map on file with the Town Clerk

Within the MOD, all requirements of the underlying zoning district remain in effect, except where these regulations provide an alternative to such requirements. Land within the MOD may be used for (1) any state-licensed Non-Medical Adult Use Marijuana Establishment, including cultivation, processing, independent testing laboratory, product manufacturing, and retail sales, in which case the requirements set forth in this section shall apply; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the MOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MOD conflict with the requirements of the underlying district, the requirements of the MOD shall control.

Section 5000.3 - Definitions

Where not expressly defined in the Zoning Bylaws, terms used in the MOD Bylaw shall be interpreted as defined in G.L. c.94I and G.L. c.94G and any regulations issued by the Cannabis Control Commission implementing these laws, and otherwise by their plain language.

- a. Independent Testing Laboratory means a laboratory that is licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation of the Adult Use of Marijuana that is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with 935 CMR 500.160 and M.G.L. c.94C, § 34.
- b. Marijuana Cultivator means an entity licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation of the Adult Use of Marijuana to cultivate, process and package marijuana, to deliver marijuana to Marijuana Establishments and to transfer marijuana to other Marijuana Establishments, but not to consumers.
- c. Marijuana Delivery-Only Retailer means an entity licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation of the Adult Use of Marijuana that does not provide a retail location accessible to the public, but is authorized to deliver directly from a marijuana cultivator facility, craft marijuana cultivator cooperative facility, marijuana product manufacturer facility, or micro-business.
- d. Marijuana Establishment means a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of marijuana-related business licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation of the Adult Use of Marijuana.
- e. Marijuana Product Manufacturer means an entity licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation of the Adult Use of Marijuana to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to Marijuana Establishments and to transfer marijuana and marijuana products to other Marijuana Establishments, but not to consumers.
- f. Marijuana Retailer means an entity licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation of the Adult Use of Marijuana to purchase and

deliver marijuana and marijuana products from Marijuana Establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to Marijuana Establishments and to consumers.

g. Medical Marijuana Treatment Center means an entity licensed by the Department of Public Health or the Cannabis Control Commission under a medical use marijuana license that acquires, cultivates, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials for the benefit of registered qualifying patients or their personal caregivers in the treatment of debilitating medical conditions or the symptoms thereof.

Section 5000.4 – Location and Dimensional Controls

1. Non-Medical Marijuana Establishments may be permitted in the MOD pursuant to a Special Permit and Site Plan Approval.
2. Non-Medical Marijuana Establishments may not be located within 500 feet of the following pre-existing uses:
 - a. Public or private school providing education in kindergarten or grades 1 through 12;
 - b. State-licensed Child Care Facility;
 - c. Library, playground, public park, public beach, youth center; or similar facility in which minors commonly congregate.

The distance under this section shall be measured in a straight line from the nearest point of the property line of the protected uses identified above to the nearest point of the property line of the proposed Non-Medical Marijuana Establishment.

3. Cultivation and processing facilities located within the MOD shall be separated from adjacent uses by a 50-foot buffer strip, unless the applicant can demonstrate, and the Planning Board finds, that adequate buffering can be provided in a narrower buffer strip.
4. Non-Medical Marijuana Establishments shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home delivery pursuant to applicable state regulations.
5. Unless explicitly stated otherwise, Non-Medical Marijuana Establishments shall conform to the dimensional requirements applicable to non-residential uses within the underlying zoning district.
6. Non-Medical Marijuana Establishments shall conform to the signage requirements of Section 3500 of the Zoning Bylaw. The Planning Board may impose additional restrictions on signage, as appropriate, to mitigate any aesthetic impacts.

Section 5000.5 – Special Permit

1. Procedure: The Planning Board shall be the Special Permit Granting Authority (SPGA) and shall conduct Site Plan Review for an applicant for a Non-Medical Marijuana Establishment.

a. Application: In addition to the materials submission requirements of Section 3100 and Section 5300, the applicant shall also include:

- i. A detailed floor plan of the premises of the proposed Non-Medical Marijuana Establishment that identifies the square footage available and describes the functional areas of the facility;
- ii. detailed site plans that include the following information:
 1. Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, signage and all other provisions of this Bylaw;
 2. Convenience and safety of vehicular and pedestrian movement on the site to provide secure and safe access and egress for clients and employees arriving to and from the site;
 3. Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected be substantially affected by on-site changes;
 4. Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;
 5. Site design such that it provides convenient, secure and safe access and egress for clients and employees arriving to and from the site.
 6. Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
 7. Adequacy of water supply, surface and subsurface drainage and light.
- iii. a description of the security measures, including employee security policies;
- iv. a copy of the emergency procedures;
- v. a copy of proposed waste disposal procedures; and
- vi. a copy of all licensing materials issued by the Cannabis Control Commission, and any materials submitted to these entities by the applicant for purposes of seeking licensing to confirm that all information provided to the Planning Board is consistent with information provided to the Cannabis Control Commission, as applicable.
- vii. a notarized statement signed by the Non-Medical Marijuana Establishment organization's Chief Executive Officer disclosing all of its designated owners, including officers, directors, partners, managers, or other similarly situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons.

b. The SPGA shall refer copies of the application to all Town departments and boards/commissions, including but not limited to the Building Department, Fire Department, Police Department, Board of Health, and the Conservation Commission.

c. After notice and public hearing in accordance with Section 3100 and Section 5300 of the Bylaw and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the SPGA may act upon such a permit and request for site plan approval.

2. Special Permit Conditions on Non-Medical Marijuana Establishments: The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's Non-Medical Marijuana Establishment, the SPGA may include the following conditions in any special permit granted under this Bylaw:

a. Hours of Operation, but if none are specified in the special permit, hours of operation shall be limited to 9:00 a.m. – 8:00 p.m.

b. The use shall not generate outside odors from the cultivation or processing of marijuana and marijuana products.

c. A Security Plan shall be required for all Non-Medical Marijuana Establishments, which shall be subject to approval by the Fire and Police Chiefs and submitted to the Planning Board.

d. The permit holder shall provide to the Zoning Enforcement Officer and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.

e. Non-Medical Marijuana Establishment may not operate, and the special permit will not be valid, until the applicant has obtained all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the facility.

f. Non-Medical Marijuana Establishments may not operate, and the special permit will not be valid, until the applicant has entered into a Host Community Agreement with the Town relative to any facility permitted under this Bylaw.

g. A special permit granted under this Section shall have a term limited to the duration of the applicant's ownership and use of the premises as a Non-Medical Marijuana Establishment. A special permit may be transferred only with the approval of the Planning Board in the form of an amendment to the special permit.

h. The special permit shall lapse upon the expiration or termination of the applicant's license by the Cannabis Control Commission.

i. The permit holder shall notify the Zoning Enforcement Officer and SPGA in writing within 48 hours of the cessation of operation of the Non-Medical Marijuana Establishment's expiration or termination of the permit holder's license with the Cannabis Control Commission.

j. No outside storage is permitted.

k. If the applicant is not the owner of the property, the applicant shall supply express written permission from the property owner.

Section 5000.6 - Prohibition Against On-Site Consumption

No marijuana shall be smoked, eaten, or otherwise consumed or ingested in public or on the premises of a Non-Medical Marijuana Establishment absent a positive vote by ballot question presented to the voters of the city or town at a biennial state election pursuant to G.L. c.94G, s.3(b).

Section 5000.7 - Prohibition Against Nuisances

No use shall be allowed in the MOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

Section 5000.8 - Abandonment and Discontinuance of Use

1. A Non-Medical Marijuana Establishment shall be required to remove all material, plants, equipment, signs and other paraphernalia upon registration or licensure revocation, expiration, termination, transfer to another controlling entity relocation to a new site and any other cessation of operation as regulated by the Cannabis Control Commission. Such removal will be in compliance with 105 CMR 725.105 (J), (O.) and regulations from the CCC; and
2. A Special Permit granted hereunder shall lapse if the applicant ceases marijuana establishment operations for a period of ninety (90) days and/or if the applicant's license by the Cannabis Control Commission has been revoked, expires, is terminated, is transferred to another controlling entity or is relocated to a new site;

Section 5000.9 - Severability

The provisions of this Bylaw are severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.