

Charlemont Planning Board
March 7, 2019 Meeting Minutes

Members Present: Robert Malone and Bill Harker, Co-Chairs, Gisela Walker, Carlene Hayden, Bob Nelson.

Others Present: Cheryl Handsaker, Emily Jones & Nicholas Hall of Green Mind Events

Call to Order

Planning Board Co-Chair Malone called the meeting to order at 7:00 p.m.

Approval of Minutes

The Board reviewed the minutes of their 2/21/2019 meeting. On a motion by Hayden and seconded by Malone, the minutes were unanimously approved, as written.

#1; 7:01 P.M.: Continuation of Special Permit Hearing for Communication Tower on 300 Zoar Road

At 7:01 p.m., Co-Chair Malone opened the public hearing for New England Investment Holding Corp for a communication tower at 300 Zoar Road. He explained that this is a continuation of the hearing from 12/11/2018. Applicant Earl Bowen was not present and no members of the public attended the hearing. Malone noted that the Board had reviewed the permit criteria and had drafted a revised permit decision at the last hearing, pending the applicant's resolution of outstanding taxes owed. The Tax Collector stated that she had sent out overdue notices and has not had any contact by the applicant seeking to resolve the outstanding taxes owed by NEIHC. Due to the fact that the applicant was neither present at the hearing nor had made any effort to resolve the outstanding taxes, on a motion by Walker and seconded by Hayden, the Board voted unanimously to deny a Special Permit to New England Investment Holding Corp. for a communication tower at 300 Zoar Road.

At 7:26 p.m., on a motion by Hayden and seconded by Harker, the public hearing was closed.

#2; 7:31 P.M.: Public Hearing for Zoning Bylaw Revisions for Adult Use Recreational Marijuana Cultivation

At 7:31 p.m., CO-Chair Harker opened the public hearing for revisions to the Zoning Bylaws pertaining to the cultivation of recreational marijuana and read the public notice. Cheryl Handsaker, Emily Jones and Nicholas Hall were in attendance for the public hearing. The Board explained that the primary purpose for the revisions was to clarify that marijuana cultivation was not included in the by-right agricultural uses listed in their use table. The Board passed out copies of the proposed revisions.

There being no questions or comments from the public, on a motion by Walker and seconded by Malone, the public hearing for the zoning bylaw revisions was closed at 7:37 p.m.

#3; Board Discussion

1. Cannabis Related Events. The Board explained to Jones and Hall, of Green Mind Events that their current Special Evet Application for the Float Then Smoke event would be a Special Permit Application, since it would run concurrent with an already permitted use of the property for Hyytinen Hollow Tubes. Since there would be an increase in attendees, the Board would need to ensure there was enough parking. Hayden provided Hall with a copy of the Special Permit for Hyytinen Hollow Tubes and reviewed some of the requirements they would be looking at. The Board cited an email received from their Fire Chief with information via the District Attorney, which stated that no product containing cannabis or its by-product can be distributed in any manner. If any product containing cannabis in any form is distributed, whether it be sold, traded, or given away, it is considered distribution by an

unlicensed distributor. The Board asked Jones and Hall for information about the event and what it would look like. Jones said they were coordinators of the event to be held on private property and were not distributing marijuana. She disagreed with the information provided by the Fire Chief and asked for a copy of it. She compared their event to similar “civil disobedience” rallies in Northampton and Boston, but when asked, declined to define for the Board what this term meant exactly. When pushed by Hayden for more clarification, Jones said there would likely be speakers but said she did not see the event becoming violent. Hayden will email Jones a Special Permit application.

2. Wi-Valley Tower. The Board asked Handsaker if she knew where the Wi-Valley mini tower issue was At. She said she hasn’t heard anything on it lately. It’s possible the tower, proposed to be sited in the right-of-way on Legate Hill Road may have been dropped due to the wide opposition to it.

3. Non-criminal Disposition Bylaw. Walker stated that the Building Inspector provided her with a copy copy of Whately, Shutesbury and Buckland’s new Non-Criminal Disposition Bylaw, which allows the Building Inspector to issue a Cease and Desist and the Board to levy a fine per day on individuals who are in violation of a bylaw or Special Permit. Currently, we have this in place in the Town’s general bylaw for the Dog Officer and Police. The Board can decide how much the fine would be and how long to allow the individual to come into compliance before starting the clock. The Board discussed going with \$200. /day, like Buckland. Walker explained that this would be another zoning revisions and would require a hearing. After discussion, on a motion by Walker and seconded by Malone, the Board voted unanimously to investigate adopting a Non-criminal Disposition bylaw, at a fine of \$200 per day.

4. Cannabis Cooperative. Hayden explained that Marcia and Bill Tucci have decided to leave the Farm Bug Cooperative and form their own small cooperative; Sun and Soil Cannabis Coop, LLC. They will be coming to a meeting soon to discuss their plans.

5. Accessory Apartment. Bruce Dearborn, a property owner who lives out of State would like to make an accessory apartment over their garage. They currently rent their primary residence and would like a place to stay if they come for a visit. He asked if there was an exemption or variance to the requirement that accessory apartments were only allowed if the owner occupied either the primary or accessory residence full time. The Board read the bylaws and found this spelled out in their Definitions section. The definition of an accessory apartment does in fact state that the owner of the property shall permanently occupy the principal or accessory residence.

Adjournment

At 9:00 p.m., on a motion by Harker and seconded by Malone, the Board adjourned their meeting.

Respectfully submitted,
Carlene Hayden

Documents Viewed in Meeting of 3/7/2019

1. Agenda for meeting of 3/7/2019
2. Minutes for meeting of 2/21/2019
3. NEIHC Special Permit files; 2008, 2010, 2018
4. Proposed zoning amendment file for marijuana cultivation for Annual Town Meeting
5. Various Special Events Applications filed by Green Mind Events
6. Email from Fire Chief Annear with information on cannabis related events; 3/5/2019
7. Special Permit File for Hyytinen Hollow Tubes
8. Non-criminal Disposition bylaws from Buckland, Shutesbury and Buckland
9. Buckland Non-Criminal Disposition bylaw fine ticket
10. Email from Bruce Dearborn on accessory apartments; 3/4/2019