

# MINUTES

## PLANNING BOARD

**MARCH 15, 2018 at 7:30 p.m.**

*115 Pleasant Street, Gardner, MA  
Room 203, Robert L. Hubbard Conference Room*

**Members present:** Allen L. Gross/*Chairman*, Robert J. Bettez, Sr. /*Vice-Chairman*, Robert Swartz, Mark Schafron and Laura Casker /*Members*, and Trevor Beauregard/*Director-City Planner*.

*Members absent:* None.

**Also present:** Chris Coughlin-Engineering, City Council President Scott Graves, City Councillor Karen Hardern, Christine Fucile-DCDP, Ernest Mello of Zero-Point Development, Inc., Christopher Anderson of Hannigan Engineering, Members of the public, and Andrew Mansfield of The Gardner News.  
*(Signed attendance sheet on file)*

ANNOUNCEMENT - Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the Chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All Documents referenced or used during the meeting must be submitted in duplicate to the Director of Community Development & Planning pursuant to the Open Meeting and Public Records Law. All documents shall become part of the official record of the meeting.

*Mr. Gross called the meeting to order at 7:30 p.m.*

### **1. MINUTES:**

#### **Vote to approve Minutes:**

✓ *Regular meeting minutes of February 13, 2018.*

*Motion to accept and approve Planning Board Regular minutes as presented.*

*R. Bettez/R. Swartz.*

*Vote-All in favor*

### **2. OLD BUSINESS:**

#### **2.1 Zoning Re-Codification**

Russ Burke-Director of Planning at BSC Group, and Consultant for the rewrite of the zoning commented that usually involves two forms, organization and format. Mr. Burke said he was pleasantly surprised with the City of Gardner's Code because organizationally it almost falls into a text book type, and did not require a major overhaul, just some tweaking since it was in good shape. The next step was meeting with the Advisory Committee to find out what is working and what is causing problems. There are some subjects that are not pertinent today as they were years ago, and there are some subjects that were not contemplated years ago and need to be included.

Mr. Burke explained the process was a combination of getting input, direction, and feedback from the Advisory Committee and taking the comments to work them into the zoning code, in addition, examining the zoning code to make recommendations to the Advisory Committee.

Mr. Burke said some zoning codes have the “Table of Uses” imbedded right in the use section of the by-laws, and suggested the Planning Board think about what their preference would be.

**Mr. Burke went through the “Table of Uses” as follows:**

### **#3 Two-Family Dwelling**

In the RR2 District, recommended that it be from a special permit to “permitted by right”. The reason for this is that in the Single-Family Residence District it already is “permitted by right”, and thought that a Single-Family Residence District is more restrictive than the General Residence 3 District.

### **#9 Senior Residential Development (A-F)**

Considered putting in place standards for senior residential development, since presently only have assisted living as a designation, and expanded to basically incorporate the full spectrum of the types of residential development that might include detached single family dwellings up to multi-family units with assisted living type situations. Sub-categories under 9A through 9F have been added in showing the various forms of senior development that may occur. Also included in the Use Table is a section that mentions accessory uses that are found in assisted living and continuing care communities with non-residential uses such as hairdressing, or a small food or retail service.

### **#10 Open Space Residential Development**

Switched from a Special Permit by the ZBA to make a Special Permit by the Planning Board since it more closely aligns itself with the type of development such as subdivisions, because the Planning Board is more accustomed with the provision of roads and utilities, etc.

### **#13 Added the word Non-Exempt to Commercial Greenhouses**

To make it clear this is applied to non-exempt commercial greenhouses because there are exempt commercial greenhouses as well under the agricultural exemption.

### **#21 Medical Clinic or Out-Patient Medical Facility**

This is a new use that has been added since this is more commonly known presently.

### **#33 Professional Office or Studio Use**

Added the words “that exceeds the 15% of gross floor area within the principal building of a residence”. The 15% was added in to make it clear, and thought having a cap in terms of the proportion of a house that is devoted to a professional office should be governed.

### **#34 Medical Office Building**

Added a new category for medical office building use because medical offices are a use that should be identified because they are becoming more prevalent.

**#36 Convenience Retail**

Thought that since other retail stores have designations on their square footage, thought that less than 2,500 square feet would be an appropriate designation to make for convenience retail.

**#40 Coin Operated Laundry**

Added this as a new use since it was not contemplated.

**#41 Laundry “On Premise” Dry Cleaners**

Added “On Premise” dry cleaners to distinguish from the coin-operated laundry.

**#42 Laundry “Off Premise” Dry Cleaners**

Added “Off Premise” dry cleaners since there is a difference between a dry cleaner that has the dry cleaning done on the premises that involves chemicals, than a place that has the dry cleaning done off site.

**#45 Motor Vehicle Light Service**

Added oil change because there are some businesses like Jiffy Lube, in order to track this type of usage.

**#47 Motor Vehicle General Repairs**

Added “excluding body work and painting” because body work involves noise, and use of volatile paint, therefore should have a use category of its own.

**#49 Car Washing or detailing establishment**

This was under Motor Vehicle Light Service, and is now a separate category since there are car washing services that do not involve vehicle repairs.

**#54 Wholesale office or showroom, with storage permitted on property**

This was deleted for the reason that it was a use years ago, and currently is not applicable.

**#55 Indoor Amusement**

Added fitness to the group of words because of the progress with fitness centers.

**#56 Commercial Clubs**

Added “outdoor” to commercial clubs and/or recreation facilities.

**#59 Transport Terminal**

Added “warehouse distribution facility” to expand the definition of Transport terminal.

**#63 Pet Day Care Facility**

Added a new entry for a pet day care facility where no animals are kept overnight to distinguish from a kennel where pets are kept for extended periods of time.

**Added #68 through #71**

Added use regulations for recreational marijuana establishments. There is a section in the by-laws that acquires details for what has been put into place for the corresponding use regulations,

and attempted to keep as much of the provisions that are in place with the medical marijuana and basically keeping with the new non-medical marijuana Massachusetts Legislation Chapter 94-G.

**#72 Industrial Uses**

Deleted words “using electrical power only” since it restricts other types of power such as a gas furnace, and excludes typical light manufacturing uses.

**#78 Added into Use Regulations**

Explained that the City Code does have provisions for wind energy conversion systems, but never found its way into the Use Regulations, and basically took what the text of the zoning code had, and put the use designations for the various districts according to the text of the code.

**#79 Added into Use Regulations**

The same reason as #78.

**#80 Added wording**

Added “that are used for renewal energy conversion, the storage, manufacturing, or processing of non-combustible materials and low hazard wares that do not ordinarily burn rapidly, cause excessive noise, vibration, noxious odor or emissions”. This is to give some control over what the other permitted uses are that may not be expressed, but do give some sense of performance standards.

**#83 Added “licensed”**

Thought with the provisions for family day care, should be tied-in with the State licensing requirements.

**#84 Added “licensed”**

Same as #83.

**#87 Added wording**

Added accepted uses that are associated with the senior residential development that would only apply in the instance of assisted living residence or continuing care community which might include some retail for community residents, personal services, clinic, community center, adult day care, and common dining and laundry facilities.

**#88 Added this in**

Added “Temporary storage unit in place for more than 90 calendar days”. Often there are moving pods that people place on their property for long periods of time. T. Beauregard said to add to this by saying this was in the City’s code and was added in a while back, but it was regulated by the Building Commissioner who is the Zoning Enforcement officer, so it made more sense for it to be in the zoning code. Also, the City Solicitor recommended this be placed in the zoning code.

**#105 Added wording**

To prohibit uses, added “occupancy of a recreation vehicle or trailer on a lot for a period of 14 days or more in a one-year period, unless the occupier is the owner or tenant of a resident which has been destroyed by a fire or natural disaster.

- L. Casker asked if any existing conditions are grandfathered, for example, a hair salon in their residence with regard to #33 professional/studio use with 15% cap. Mr. Burke said yes, all non-conforming, pre-existing legal uses, unless the use is discontinued for a period of two or more years.
- Mr. Burke spoke of the other table listing “Dimensional Requirements”. The major change that made was regarding the maximum building coverage, which is the footprint of the building itself. There were some concerns that issues other than buildings may cause problems for the reason that there is an over development of a lot. For example, with a small lot, if someone decides not to cut the grass any longer, and then chooses to pave over the whole lot, this could be problematic with respect to storm water, ground water recharge, etc... Mr. Burke further said that many communities have opted to go with a lot coverage which basically involves not only the building itself, but all impervious surfaces as well, such as sidewalks, parking areas, driveways, tennis courts, accessory buildings, etc.
- Mr. Burke also spoke of the “open space required” for the dimensional requirements, and discussed what was the appropriate amount of open space required. It was established that a lot more attention was given to the smaller lot requirements, for example, General Residence 3, up to 85% is allowed for impervious service. Part of the reason for this, the lots tend to be smaller and more intensely developed, and felt that if it was 20%, then 90% of the properties in the General Residence District non-conforming, which is not the intention.
- Mr. Burke noted the Rural Residence District which has the largest minimum lot area has only 30% lot coverage, then steps up to 50% for the Single Residence I, and 85% for the General Residence District. Also did the same for the Commercial I and 2, and Industrial Districts.
- Mr. Burke went on to the Zoning Code itself, and noted the following Sections:

Section 160, on page 4:

One of the newer amendments to the zoning code, added as a safety precaution which needed to be put in place for the zoning code.

Section 210, Added and amended the definitions as follows:

... Assisted Living, Boarding House, Continuing Care Retirement Community, Dwelling (types), Essential Services modified somewhat to be more focused on the overall type of utilities as opposed to localized distribution, Impervious Surface for maximum lot coverage, Independent living unit ties into the senior residential development lot coverage, tightened up the definition of Home Occupation to make it more performance based as opposed to trying to pinpoint specific type of uses, Non-medical Marijuana needed various related definitions, Medical Office, Medical Clinic, Mixed Use to be more accurate, Sign code due to a case in the U.S. Supreme Court that ruled to regulate signs to be content neutral order to eliminate any type of conflicts, Temporary Storage Unit, Transient Business that was requested by the Building Inspector to make it easier to enforce pop up businesses.

Section 320, Official Zoning Map, on page 16:

Tried to tighten up the definition of what the Zoning Map is because there is the zoning map on the city’s website, and the zoning code that references the specific date of the zoning map. Now, each time it changes, there is no need to amend the text on each date of a change.

Section 410, Use Regulations:

Made some minor changes to non-conforming uses since there was some language that was contradictory to be more consistent.

Section 510, Flood Plain Overlay District:

At the suggestion of the Advisory Committee, named the Planning Board as the special permit granting authority in lieu of the Board of Appeals, since the Planning Board deals with storm water issues and earth work, and thought the Planning Board is better versed, and more equipped with flood plain zoning.

Section 530, Development Overlay District:

- ... Had a provision in here that properties with no legal frontage would still be allowed, but added language that they would need to require proof of legal access to property with no frontage.
- ... The Planning Board would made a recommendation to the City Council as they would with any type of zoning map amendment.
- ... Changed the Building Coverage to Lot Coverage so it is consistent with the “Table of Dimensional Requirements”.
- ... Added parking requirements for dwelling units since it presently is not in here.

Section 550, Industrial and Commercial Heritage Planned Unit Development:

It was recommended to delete this since it has not been utilized at all in its existence.

Section 570, Route 140 Corridor Overlay District:

This was deleted also since it also has not been utilized.

Section 590, Mill Street Corridor Development Overlay District:

Changed Building Coverage to Lot Coverage.

Section 610, Dimensional Requirements:

Replaced maximum Building Coverage with Lot Coverage.

Section 710, Off Street Parking:

- ... Added width and location requirements for residential access driveways, and parking setbacks that had not been in place, and was suggested by Chris Coughlin so people do not start doing numerous curb cuts on their properties.
- ... Added language for the Planning Board to provide a waiver from requirements through the Site Plan Review process.
- ... Changed parking space requirement for retail use based on size of the retail use.
- ... Changed length of parking stall to 18 feet for 90-degree two-way layouts.
- ... Increased maximum height for parking lots light to 20 feet, since the higher they are, the fewer will be needed.
- ... Designated Planning Board as special permit granting authority for drive-throughs. It was felt that the Site Plan Review process the Planning Board undertakes would put this in a better position to make evaluations and determinations on drive-through situations.

#### Section 810, Open Space Residential Development:

- ... In this section, it started out as a definition, therefore moved the definition to "Definitions" section. The open space residential requirement had a provision that allowed the City to request and require a peer review fee from an applicant for preliminary review, furthermore, it was suggested that this would discourage applicants to come forward and taking advantage of the open space residential development provision.
- ... Made some modifications in the dimensional requirements.

#### Section 820, In-Law Apartments:

- ... Eliminated a repetitive requirement for Owner occupancy requirements.
- ... Also eliminated a repetitive 900 square foot minimum size requirement.

#### Section 830, Home Occupations:

- ... Limited the area to 15% of total floor area which goes back to the Professional Office & Residential Development which was talked about earlier.
- ... Also, added the restriction of on-site retail sales which would still allow for someone to eBay type website businesses for internet sales, but not allowed to bring in shipments daily.

#### Section 840, Senior Residential Development:

- ... Added new provisions for all types of senior housing, made the changes to the "Schedule of Use Regulations", and all senior residential development requires a Special Permit from the Planning Board.

#### Section 910, Signs:

- ... Added revisions to make sign code content to neutral, for example substituted the word business with establishment which would cover all types of uses, and would not be content specific.
- ... There was a request that some provisions for certain temporary "sandwich" signs be allowed. Also included provisions which might be allowed on public property on sidewalks, but can only be done unless written permission, or license is provided from the City. If it is on a sidewalk, has to be removed daily, and cannot be left overnight.

#### Section 1010, Scheduled Developments:

There was a provision stating that if so many building permits were issued in a given calendar year, that a moratorium is suggested. Moratoriums are not viewed as being legal, since a moratorium is typically held for a specific problem, furthermore it was suggested to be deleted.

#### Section 1010, Site Plan Review:

Decreased the square footage and parking space number applicability threshold.  
Added marijuana establishments and drive through windows to require Site Plan review.  
Added requirement for Planning Board to determine consistency of a project if it involved a concept plan associated with a zoning map amendment.

Provision added to allow Planning Board to require applicant to post funds for the cost of an outside consultant to perform peer review of plans, reports, and other material if necessary.

Section 1170, Special Permits:

Added a requirement for a Special Permit finding of consistency for projects that involved a zoning map amendment with a concept plan.

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T. Beauregard stated the Planning Board will be holding a Joint Public Hearing with the City Council.

Mr. Gross commented that Mr. Burke did a great job boiling this down concisely for what has taken place.

Mr. Burke said a lot of time was spent with the Advisory Committee, Mr. Beauregard, the previous and current Building Inspectors, and Chris Coughlin.

Mr. Burke further stated that a “Draft” on the Zoning Districts has been provided that gives a brief synopsis of the districts.

Mr. Gross asked if the City Council has received the zoning re-codification rewrite, and T. Beauregard replied yes, and also said it is posted on the City’s website that was created by Rachel Stephano and Rachel Catlow. T. Beauregard noted the “draft” of the zoning districts is not posted on the City’s website.

Mr. Gross asked what the next step is. Mr. Burke said the public hearing has been advertised and suggested starting to compile any comments, and changes in order to include actions at the public hearing. If there are any changes that come up as a result of the public hearing, adjustments can be made.

T. Beauregard recommended that a vote be taken.

***Motion to request the City Council consider the draft zoning code, and schedule a joint public hearing with the Planning Board and City Council.***

***L. Casker/R. Swartz.***  
***Favor.***

***Vote-All \_\_\_\_\_ in***

3. NEW BUSINESS:

**3.1** Definitive Plan re Sanctuary Medicinals, Inc. – Vote

Mr. Gross asked if the Planning Board had any more questions from the presentation just made.

L. Casker asked what type of vehicles will be delivering product to and from the location, and the hours of operation.

T. Beauregard commented this was a question brought up at the Development Review Committee meeting, and said the deliveries are made in un-marked vans by two drivers, with one driver remaining in the van while the delivery is being made. The hours of operation are from 8 a.m. to 8 p.m.

***Motion to accept plan as presented with the following conditions:***

- ✓ ***Any approvals from the Zoning Board of Appeals.***

- ✓ *Provide a new, full size photometric lighting plan approved by the City Engineer.*
- ✓ *Patch and repair parking lot to make safe for vehicular and pedestrian travel, and include markings.*

R. Swartz/M. Schafron.

Vote – All in favor.

### 3.2 Zero Point Development, Inc. – Solar Petition:

- Ernest Mello of Zero Point Development, Inc. introduced himself and noted that Christopher Anderson from Hannigan Engineering, and members of the Dubzinski family who are the land owners for one of the parcels that is part of the proposal for the new Overlay District.
- Mr. Mello explained he is speaking about creating a new solar overlay district in the City, and further explained that large scale solar is limited in the City to two current overlay districts located on West Street and Summit Industrial Park. Mr. Mello further explained that he did some research on creating a solar overlay district, and was advised to try to include some additional parcels around the area. The major parcel being pursued for solar is roughly 125 acres which is the parcel owned by the Dubzinski family.
- The area is a combination of six parcels which is approximately 200 acres. A conceptual plan was shown for a 5 megawatt array which is the maximum size per parcel.
- Mr. Mello stated it is understood that an additional, much more detailed plan will need to be provided, and also understands that any abutters impacted will be notified.
- Mr. Gross asked what the topography is for this parcel. The reply was it is generally sloping, and not the steepest or flattest, but the array area is the flattest piece. The wetlands should have no impact since there is plenty of high ground areas. The size of the individual parcels offers the ability to move things around, and some wiggle room to adjust buffers and make sure the abutters are not disturbed.
- L. Casker asked about the setback from the reservoir that is required by law for the solar panels, and the reply was it is the typical set back of 100 feet.
- T. Beauregard mentioned to keep in mind this is conceptual, but if this was to go through the permitting process and the overlay is approved, will require much more detail.
- Mr. Gross recognizes this request is to give the Planning Board some insight, and not so much for this development, but to look at the creation of another overlay district.
- Mr. Gross stated he does not believe there is enough information on the creation of another overlay district to have a discussion, and T. Beauregard conveyed further on this.
- T. Beauregard explained probably six or seven years ago when the City established the overlays, a consulting engineer was hired to look at the various parcels within the city that would be advantageous for solar development such as areas that are flat and cleared, and areas that would not require cutting down too many trees. The specific areas at that time were Summit Industrial Park, the large area off West Street between West Street and Clark Street, and Otter River Road.
- Recently approved was the Otter River Road area for three projects in excess of 60 megawatts, furthermore have not built out yet. The area also includes the southwest side of West Street (*behind the cemetery*) with 2.5 megawatts already constructed. The majority of that area was sand and gravel pits, so the area was already cleared, and the three projects recently approved required minimal tree removal.

- T. Beauregard further explained that the airport and the sewer treatment plant were also identified, but are actually in Templeton, and have not been pursued because Templeton has a municipal electric/light company.
- T. Beauregard confirmed that the City did proceed with creating two overlays, with one along West Street, and the other at Summit Industrial Park.
- T. Beauregard pointed out that at the Public Welfare Committee meeting, Councilor Johnson mentioned the State documentation on solar development discourages identifying properties that are wooded since removing a lot of trees has a negative effect on the environment / atmosphere.
- Mr. Mello said this was an issue that did come up, and a valid concern regarding cutting trees down. Mr. Mello further said the Department of Energy Resources do not recommend pursuing property that requires cutting down trees, but Massachusetts General Laws states that cities/towns cannot unreasonably regulate solar unless it is detrimental to the public welfare with regard to health and safety. Mr. Mello further said what he has seen with regard to finding sites with no trees is very limited, with a very small percentage that is allowable or suitable, therefore, 80% to 90% of the sites looked at are no different than other developers involved with cutting down trees. Furthermore, cutting down trees can benefit because clean, renewable energy is being produced.
- Mr. Gross commented if additional solar overlays are created, questions if there is a better, more suitable area for solar development, and suggested to the Board additional discussions whether this area is the best place to put a solar development, or the right time to put it. Mr. Gross would like this continued for the next Planning Board meeting for more discussion.
- Mr. Bettez recommended a site visit, and Mr. Gross agreed to schedule a visit within the next few weeks.
- Mr. Gross pointed out the City Council be informed further discussion is necessary to determine a recommendation.

**4. Announcements, News Articles, Events:**

- ... *Next regular Planning Board meeting scheduled for April 10, 2018 at 7 p.m.*
- ... *Gardner News articles presented.*

**Adjournment**

***Motion to adjourn.***

**L. Casker/ R. Bettez**

***Vote -All in favor.***

***The meeting adjourned at 8:52 p.m.***

All documents referenced or used during the meeting are part of the official record and are available in the Department of Community Development and Planning pursuant to the Open Meeting and Public Records Law.