

## APPROVED

### ADAMS PLANNING BOARD MEETING MINUTES MONDAY, MAY 17, 2021

**MEMBERS PRESENT:** Chairman David Rhinemiller, Vice-Chairman David Krzeminski and Members Lisa Gazaille, Sandra Moderski and Michael Mach

**OTHERS PRESENT:** Town Administrator, Jay Green; Christine Hoyt, Adams Select Board, Building Commissioner, Gerald Garner; Special Projects Coordinator, Donna Cesan; Attorney Dennis Egan; Attorney Joseph Colonna; John Burke; Elizabeth Tully; Diane (unidentified last name); Tina (unidentified last name); Jack Guerino, *iBerkshires* and Recording Secretary, Pam Gerry

### LEGAL NOTICE TOWN OF ADAMS PLANNING BOARD NOTICE OF PUBLIC HEARING PROPOSED ZONING BYLAW CHANGES

In conformance with the provisions of M.G.L. Chapter 40A, Section 5, the Adams Planning Board will hold a Public Hearing conducted via Zoom on **Monday, May 17, 2021 at 7:00 p.m.** at Town Hall, 8 Park Street, Adams, Massachusetts. The purpose of the public hearing is to provide interested persons or parties with the opportunity to comment on proposed amendments to the Adams Zoning Bylaws, Article IV, Section 125-35 "Licensed Marijuana Establishments" to expand the location for certain licensed marijuana establishments within the Industrial Park (IP) Zoning District in Adams, while minimizing potential adverse impacts of marijuana establishments and ensuring the general safety, welfare and quality of life of the Town's neighborhoods and the broader community. A copy of the proposed changes is on file and may be viewed in the Office of the Town Clerk by appointment, M-Th 8:30 AM to 5:00 PM, 8 Park Street, Adams, Massachusetts.

**Join Zoom Meeting by Video:**

<https://zoom.us/j/93289983209?pwd=eWNYUzBqRy81dnI0MjY4ZitUK2p0Zz09>

Meeting ID: 932 8998 3209

Passcode: 861596

**Join Zoom Meeting by Phone:**

1 929 436 2866 US (New York)

Meeting ID: 932 8998 3209

Passcode: 861596

Find your local number: <https://zoom.us/u/avUFxJExQ>

**CALL TO ORDER:** Chairman Rhinemiller called the meeting to order at 7:00 P.M.

Ms. Gerry reads:

*Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15 and July 2, 2020 Orders imposing strict limitations on the number of people that may gather in one place, this meeting of the Town of Adams Planning Board is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort has been made to ensure that the public can adequately access the proceedings as provided for in the Order. We have posted today's agenda in accordance with Open Meeting Law, which included the call-in information for the meeting. Despite our best efforts, if we are not able to provide for real-time access for the public to participate in today's meeting, a recording of this meeting can be made available by request, as this meeting is being recorded using the Zoom platform.*

Chairman Rhinemiller opened the meeting to the public. He reminded the public audience to state their name and phone number before addressing the Board members.

Donna Cesan, Town of Adams Special Projects Coordinator opened discussion by stating at the time the Planning Board recommended approval of the Town's marijuana bylaws back in 2018 or so, it was recognized that over time the bylaws would be monitored and reviewed to see how well they were working. Since adopting the bylaws addressing marijuana businesses, Ms. Cesan stated that Town staff had been approached on numerous occasions by parties showing interest in opening a marijuana business within the Adams Corporate Park, which is zoned "Industrial Park (IP)." She noted that currently there are two vacant buildings within the park and one available lot. Ms. Cesan noted that staff has had to convey to these prospective parties that within the IP Zoning District, marijuana testing laboratories were the only allowed marijuana business use. Ms. Cesan stated that staff began discussions with the Board of Selectmen about the attempt to create an amendment to the existing bylaws to expand the locations for marijuana businesses in town. She also stated that at the Planning Board's last workshop meeting, Board members expressed their interest in expanding the locations for marijuana cultivation and production businesses to the IP zoning district, but also expressed the desire to take a cautious approach by requiring such businesses to obtain a Special Permit, which would provide a higher level of review for each proposed business use.

Ms. Cesan continued by outlining the proposed amendment to the Town's bylaw under Section 125-35, "Licensed Marijuana Establishments." She stated that within this section of the Adams Zoning Bylaws, paragraph C (2), is proposed to be amended by adding; "*marijuana cultivators and product manufacturers, as defined by this bylaw, may be sited in the Industrial Park (IP) District if granted a Special Permit and subject to Planning Board approval.*" Ms. Cesan stated that this one sentence is proposed to be the only amendment to the bylaw. She continued stating that a change would also be made to the "Use Regulation Schedule," footnote 9 to incorporate; "*Marijuana Cultivators, Product Manufacturers*" as uses that would be allowed by Special Permit.

Ms. Cesan asked the Board members if they had any questions regarding the proposed amendments to the zoning bylaws.

Member Moderski was curious to know what the Special Permit requirements would be within the proposed amendment. Ms. Cesan responded by stating that when an application was submitted to the Planning Board, the Board as it thought appropriate could impose conditions on the requested use, noting that the conditions could address such items as businesses appearance or hours of operation. She emphasized to the Board that if an applicant was not able to mitigate impacts on surrounding properties to the Board's satisfaction, the Planning Board could deny the Special Permit request.

Vice-Chairman Krzeminski addressed Ms. Cesan to ask her if residents in the surrounding area of the Industrial Park had any input to the proposed projects. Ms. Cesan said, yes; as part of the public review process their input would be important.

Member Gazaille was curious to know the number of locations that were included within the Industrial Park Zoning District in the Town of Adams. Ms. Cesan responded by stating that properties within the Corporate Park were the only properties with the IP Zoning District classification in Town.

Chairman Rhinemiller opened the meeting to the public.

Attorney Dennis Egan addressed the Board members introducing himself and providing his phone number, 413-553-0411 for the record. He began his comments by letting the Board members know that he was representing the owner of SNP Holdings, LLC and the operator at Conserve thru Control, Inc. located at 8 Renfrew Street in the Industrial Park. He emphasized to the Planning Board that the owner of the company was not opposed to cannabis use in Adams but specifically in the Industrial Park, noting that this location was an inappropriate area to conduct this business use. Attorney Egan stated that the Town of Adams had excluded the Industrial Park for this proposed use emphasizing that "they got it right the first time." Attorney Egan stated that marijuana cultivation would create industrial type uses that cause noise, vibrations, and dust while noting that according to the Town's zoning bylaws, the Industrial Park included light manufacturing uses. He stated that "this proposed amendment does not meet the Town of Adams zoning bylaw site plan approval criteria." Attorney Egan stated that the marijuana cultivation facility would have an obnoxious and continuous smell which would be in close proximity to the Renfrew Park nearby where children gather which would not be compatible near this type of environment. Attorney Egan noted that the Town had no experience with marijuana cultivators and the odors and other obnoxious disturbances that are created by them. He stated that his client felt that the town should have more experience with the cultivators before they consider this amendment to their zoning bylaws.

Attorney Egan thanked the Board members and stated that he would accept any questions they would like to present to him.

Vice-Chairman Krzeminski addressed him to ask if he had any information to offer the Board regarding other communities' experiences with marijuana cultivators. Attorney Egan suggested that the Board members perform a google search to review comments that were submitted by area residents living in neighboring communities.

Attorney Joe Colonna, representing John Burke owner of property at 6 Renfrew Street located in the Industrial Park addressed the Board members. He stated that he was hearing objections from Attorney Egan regarding odor and traffic. He stated that these are the conditions the Town should be seriously looking into when granting a Special Permit in respect to how they should be dealt with. He

stated that the Industrial Park had a long history of industries occupied in the area that created odor and traffic such as a pellet company that produced obnoxious smells and Specialty Minerals, a direct abutter off of Route 8 who had their own environmental and air quality issues that have been addressed effectively by the Town over the years. He pointed out to the Board members that they would deal with these types of issues during their Special Permit review of the application and take the necessary steps to move the project forward. In conclusion, Attorney Colonna wanted to know the timeframes involved in the proceedings. Ms. Cesan responded by stating that if the Planning Board approved the amendment to the bylaws, the next step would be to present it at Town Meeting which was scheduled for June 21, 2021.

Ms. Cesan stated that she had communicated with Town Administrator Jay Green to let him know that there was a very interested party inquiring about the MRA Lab building in the Industrial Park. She stated that they were told marijuana use was not allowed and they could not move forward with the permitting process. Ms. Cesan let them know that she conveyed this news to Mr. Green and suggested that they speak with the Board of Selectmen in regards to moving forward on some changes to the town's bylaws. She stated that the park was developed for "the purpose of manufacturing, research and development." In response to a question, she explained that the Board of Selectmen and/or the Planning Board can initiate a zoning bylaw amendment. Ms. Cesan explained to the members that the Board of Selectmen held a workshop meeting followed by a public meeting to make a formal request to the Planning Board to consider a bylaw change.

Vice-Chairman Krzeminski asked Ms. Cesan if Town staff had checked on activity with various marijuana cultivators in the surrounding areas to gain information on these operations since their last workshop meeting. He further noted that in the past years when the pellet business had been in operation, the odor and dust produced by the business was a nuisance to that area of town showing concern that this could be the situation with future marijuana cultivation businesses. In responding, Ms. Cesan reminded the Planning Board that it had recently approved an application by LC Square, LLC in April 2021 to operate a marijuana cultivation facility. She stated that Mr. Babayan, owner of the business, addressed the Board members at their last meeting to discuss details of the measures he would be taking in regards to the high standard of odor control that was proposed to be utilized at his facility. She recalled that Mr. Babayan described how they would operate under a "closed system" noting that less than 10 percent of the air in the cultivation facility would exit to the outside.

Vice-Chairman Krzeminski wanted to know how the Planning Board would handle the situation if the odor from a marijuana cultivation facility became uncontrollable. Building Commissioner Garner addressed the Board members stating that the Cannabis Control Commission oversees odor control and makes determinations regarding the future of the facilities operations when addressing odor matters. Mr. Garner reminded the Board members that if industrial operations are to move into the town, "you will have to make considerations for that." He told them that Specialty Minerals continues to blast for lime causing dust throughout the community. He continued to note that Lane Corporation was making chemicals that created odors within the neighborhood, as well.

Member Moderski stated that the Town created an Industrial Park Zoning District for the purpose of certain types of uses which were different then the activity within the Industrial Zoning District. She stated that the Town should be careful where they allow the marijuana cultivators to locate.

Member Mach stated that importantly, the marijuana business would generate revenue for the Town, as well as promoting employment for area residents.

Attorney Joe Colonna wanted to offer his phone number, 413-896-3350 for the record and stated that he understood the caution behind the decision-making process but reiterated that the town managers and board members would be regulating the issuing of these Special Permits for future marijuana businesses. He stated that with any new developments there can be the notion of “not in my backyard, anywhere else in town but not here.”

Attorney Egan mentioned that there are other properties in the Industrial Zoning District that can be used for these operations. He stated that due to the fact that past businesses in the Industrial Park had obnoxious uses and that this use should be allowed he noted would be contradictory.

Attorney Colonna stated that from the 1870s moving forward, the Industrial Park has been an industrial area with some form of manufacturing or industrial work.

Chairman Rhinemiller asked if there were any further comments from the public audience.

Town Administrator Jay Green addressed the Board members. He stated that Ms. Cesan was correct by stating the Town had received multiple inquiries on available uses to operate their marijuana cultivating and manufacturing businesses within the Industrial Park, noting that “there was an economic demand for that type of business in that type of environment.” Mr. Green stated that Attorney Colonna was correct stating that the Board has control over the Special Permit and site plan approval. He stated that if the amended bylaw was approved at Town Meeting, the Planning Board would address proposed uses on a “case by case basis.” Mr. Green stated that if the Special Permit’s conditions were violated, the permit could be revoked or fined for illegal operations giving the town government and the Planning Board control over these matters. Mr. Green thanked the Board, Ms. Cesan and the attorneys for their efforts.

Chairman Rhinemiller closed the meeting to the public.

Member Moderski addressed Attorney Colona to ask him why he was interested in the time frames that would follow their decision-making regarding marijuana uses in the Industrial Park. He stated that his client, John Burke who owned property at 6 Renfrew Street located in the Industrial Park Zoning District would be directly affected by the Planning Boards’ decision.

Vice-Chairman Krzeminski asked Ms. Cesan to define “Licensed Marijuana Establishment” to the Board members. She stated it would include cultivation, retail, testing and production, which were all under the “umbrella” of licensed marijuana establishments. She stated that marijuana establishments are allowed by right in the Industrial Zoning District and retail marijuana may be allowed in the B-2 Zoning District if approved by a Special Permit.

Chairman Rhinemiller reminded Board members that the Planning Board’s decision would have to move forward to Town Meeting if the marijuana bylaw amendment was approved which would offer them additional input regarding their decision-making process.

Member Moderski showed concern that applicants would come before the Planning Board for the final decision on their Special Permit request. Chairman Rhinemiller stated that the Board members have the power to set conditions on the Special Permit or inevitably deny the permit if it failed to meet their criteria. Member Moderski was curious as to the time frame for the operation of LC Square’s marijuana cultivation business. Ms. Cesan responded by stating since they had received

Site Plan approval by the Planning Board, their next step was to apply for their building permit. She stated that the owner, Mr. Babayan conveyed to her that he would like to be open for business by late summer.

Ms. Cesan acknowledged that there was a substantial amount of land within the Industrial Zoning District, but it was not served by public water or sewer making development difficult. She stated that given the large tracts of Industrial-zoned land, it serves as essentially a holding zoning and much of it is in agricultural use. She emphasized that the parties interested in purchasing land or redeveloping a vacant building do not have much opportunity in Adams because there is just not much land that is suitable. Ms. Cesan showed concern that Town residents repeatedly express the need to grow the Town's tax base.

Member Mach suggested that the Board members receive feedback from other communities that have marijuana facilities. He stated that there was a great deal of revenue to be made for Adams if they allowed this use in the Industrial Park. He reminded the Board members that they would be able to set conditions on the permits regarding odor and noise issues. Member Mach stated that it would bring industry to the area along with employment opportunities and perhaps lower taxes in the near future.

Member Gazaille stated that it was important for the marijuana bylaw to be approved at Town Meeting. She wanted the Board members to know that technology was always improving and the Board could impose conditions on the marijuana facilities which would give them control over potential impacts on the surrounding area.

Vice-Chairman Krzeminski was curious to know if the Planning Board could limit the amount of marijuana growers in the Industrial Park. Ms. Cesan suggested that the members should consider the impacts on "a case by case basis," emphasizing that the Board can deny the Special Permit request.

Member Moderski suggested that the Planning Board should delay their decision on amending the bylaw while they observed the marijuana facility owned by LC Square, LLC in regard to their odor concerns.

Vice-Chairman Krzeminski addressed Building Commissioner Garner to ask him what enforcements could be mandated by the building inspector. He stated that the conditions set by the Board members regarding any future permits would have to be followed by the applicants or he would be responsible to assure that they are enforced.

Mr. Garner wanted the members to know that he had visited marijuana facilities in other communities and he had not heard any nuisance complaints. He stated that mitigation systems are more "robust now." He reminded the board members that traffic issues should be a "low consideration" in the Industrial Park emphasizing that truck activity would be necessary in order to conduct business. Mr. Garner stated that a multi-million-dollar business would not risk losing their business by not complying to the conditions set on their permit.

Member Moderski was concerned that the Board would not be able to set limits on a marijuana grower in the community. Chairman Rhinemiller responded that the Board could approve the permit if the applicant's business satisfactorily addressed concerns relative to noise and odor and met the Board's standards. He stated that they would not need a reason to deny a Special Permit. Chairman

Rhinemiller stated that the Board could allow a second applicant and request additional information which would give the board more flexibility and control.

Chairman Rhinemiller asked the Board members if they had any further questions.

Member Moderski expressed concern that the Planning Board may not have any control over marijuana cultivators that were allowed to locate in the Industrial Park. Chairman Rhinemiller stated that the Board could request that the applicant hire an independent consultant, as the Board has done in other cases as one of their conditions to address their concerns.

Member Moderski made a motion, seconded by Vice-Chairman Krzeminski, to take no action on the amended marijuana bylaw while the Planning Board gathered additional information on cultivators in Berkshire County and surrounding communities before a decision was made.

Chairman Rhinemiller asked if there was any further discussion. There was none.


A roll call vote was taken with Chairman David Rhinemiller and Members Michael Mach and Lisa Gazaille voting three (3) not in favor. Vice-Chairman David Krzeminski and Member Sandra Moderski voted two (2) in favor. The motion failed.

A motion made by Member Michael Mach, seconded by Member Lisa Gazaille, recommended approval to the proposed amendments to the Adams Zoning Bylaws, Article IV, Section 125-35 "Licensed Marijuana Establishments" paragraph C (2), as proposed. A roll call vote was taken with Chairman David Rhinemiller and Members Lisa Gazaille and Michael Mach voting three (3) in favor. Vice-Chairman David Krzeminski and Member Sandra Moderski voted two (2) not in favor.

**REVIEW MAIL:**

**ADJOURN:** A motion made by Member Mach, seconded by Member Moderski to adjourn the meeting at 8:10 p.m., passed unanimously.

Respectfully Submitted,

  
Recording Secretary

9/28/21  
Date