



## *Williamsburg Planning Board*

141 Main Street, P.O. Box 447

Haydenville, Massachusetts 01039-0447

Phone: (413) 268-8400

Fax: (413) 268-8409

### Minutes for meeting on **February 6, 2023**

Member	Present	Not Present	Member	Present	Not Present
Tariq Abu-Jaber	X		Jean O'Neil	X	
Amy Bisbee		X	Eric Schmitt	R	
Chris Flory	X		Steve Smith	X	
Holly Hendricks	X				
<b>Other attendees:</b> R = remote					

At 7:05 pm Chair Smith called the meeting to order.

#### 1. Vote on prior minutes

Meeting Date	Comments	Motion to Accept	Motion to Accept as Amended	Second	Vote Yea - Nay
1/9/2023	Meeting minutes	Hendricks		O'Neil	6-0

2. Committee Liaison Reports. O'Neil reported that the Greenway Committee will have a public listening session in April with a focus on the Haydenville section of the path. Chair Smith noted that the Greenway Committee is planning a 2023 survey of town residents, which may present an opportunity for coordination with the expected 2023 comprehensive planning survey.
3. Capital request. Chair Smith submitted a capital request submitted for screen, laptop and camera.



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4. Chair Smith noted a CPTC (Citizen Planner Training Collaborative) event happening at Holy Cross College, in Worcester on March 18th. Registration opens in mid-February.
5. Review Attorney General's letter (see below) reviewing 2022 zoning changes was reviewed and discussed. O'Neil moves that the planning board acknowledge the Attorney General's letter of January 12, 2023 pursuant to Article 19 changes which passed at the June 6, 2022 Williamsburg Annual town meeting and recommends no further changes to Article 19 are needed at this time.

Meeting Date	Motion	Second	Vote Yea - Nay
2/6/2022	O'Neil	Hendricks	6-0

Chair Smith provided a draft of potential future changes as follows:

### **SECTION 18 – DEFINITIONS**

**Marijuana Establishment:** As defined by the Massachusetts Cannabis Control Commission: Marijuana Cultivator, Craft Marijuana Cooperative, Independent Testing Laboratory, Marijuana Research Facility, Standards Laboratory, Microbusiness, Transporter, Marijuana Delivery Operator Marijuana Product Manufacturer, Marijuana Retailer, or any other type of licensed marijuana-related businesses. For purposes of this Bylaw a Marijuana Establishment shall not include a Marijuana Social Consumption Establishment.

**Medical Marijuana Treatment Center:** ~~The site or sites where a not-for-profit entity, as~~ As defined under [Medical Marijuana Treatment Center in 105 CMR 725.000 of the Massachusetts Department of Public Health CMR 501.002 \("Medical Use of Marijuana"\)](#), as it may be revised, replaced or amended from time to time, ~~cultivates, prepares or possesses medical marijuana and marijuana products, and where it dispenses medical marijuana and marijuana products to registered qualifying patients or their personal caregivers.~~

6. Draft of planning board annual report for upcoming Town Meeting. Chair Smith reviewed draft language (see below) summarizing the board activity during calendar year 2022. Various suggestions were discussed.
7. Comprehensive Plan. Chair Smith noted that he submitted the application for the DLTA grant. The board created a first draft timeline for visioning work in 2023.



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### 8. New Business

The next meetings are planned for February 21st and March 6th.

The meeting adjourned at 8:52.

Respectfully submitted,

Eric Schmitt



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### Town Annual Report Submission

#### Planning Board - 2022

The Planning Board's major accomplishment in 2022 was the approval at Town Meeting of two changes to the Zoning Bylaw regarding Marijuana Establishments. The changes included updating language to match state regulations, updating rules for cultivation of marijuana, changing the buffer distance from schools, and removing the prohibition on establishments in buildings containing residential units.

The Board has broadened its outreach to other boards and committees in town, and in the fall we began looking into creating a first-ever Comprehensive Plan for the town. We investigated methods and sources of funding for such an effort and look forward to engaging citizens during 2023 to develop a future Visioning document as a foundation for Comprehensive Plan.

Submitted 2/13/23 by Stephen Smith, Chair



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ELIZABETH N. DEWAR  
ACTING ATTORNEY GENERAL

## THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

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January 12, 2023

Brenda Lessard, Town Clerk  
Town of Williamsburg  
P.O. Box 447  
Williamsburg, MA 01039

Re: Williamsburg Annual Town Meeting of June 6, 2022 -- Case # 10744  
Warrant Article # 19 (Zoning)  
Warrant Articles # 17 and 18 (General)

Dear Ms. Lessard:

**Articles 17, 18 and 19** - We approve Articles 17, 18 and 19 from the June 6, 2022 Williamsburg Annual Town Meeting. Our comments regarding Article 19 are provided below.

**Article 19** - Under Article 19 the Town adopted several zoning by-law amendments related to marijuana establishments by amending the following sections: (1) Section 3.2, "Schedule of Use Regulations;" (2) Section 9.25, "Registered Marijuana Dispensaries;" (3) Section 9.26, "Marijuana Establishments and Medical Marijuana Treatment Centers;" (4) Section 18, "Definitions;" and (5) the zoning by-laws Table of Contents.

The Town must ensure that these by-law amendments are applied consistent with the applicable statutes and regulations, including amendments to 935 CMR §§ 500.000, "Adult Use of Marijuana" and 935 CMR 500.001, "Medical Use of Marijuana," effective January 8, 2021. In addition, the Town should consult with Town Counsel to determine if future by-law amendments are needed in light of the recently updated Cannabis Control Commission (CCC) regulations. This is especially important given the court's holding in West Street Associates LLC v. Planning Board of Mansfield, 488 Mass. 319 (2021) that towns are preempted from adopting by-law requirements that impose different requirements on marijuana establishments than those imposed by the CCC.

In light of the CCC's regulations, including updated definitions and delivery requirements, we offer comments on certain text for the Town's consideration of potential future clarifying amendments.



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### I. Section 9.26 - Marijuana Establishments and Medical Marijuana Treatment Centers

Section 9.26 imposes regulations related to marijuana establishments (ME) and Medical Marijuana Treatment Centers (MTC). Marijuana retailers and MTC are allowed by special permit and site plan review in the Village Mixed Use District. See 9.26 (C) (b). Other types of marijuana uses including cultivators, couriers, delivery operators and marijuana product manufacturers are allowed by special permit and site plan approval in the Village Mixed and Rural Use Districts. Section 9.26 (C) (a). The by-law imposes requirements and conditions for all marijuana establishments including setbacks, hours of operation and ventilation. See Section 9.26 (D).

Section 9.26 (E) (4) (e) requires that a ME special permit application include several things, including information related to energy and water use as follows:

All marijuana cultivators shall submit energy use and water use plans to the Planning Board to demonstrate best practices for energy and water conservation and ensure there are no undue impacts on the natural environment. The plans shall include an electrical system overview, proposed energy demand and proposed electrical demand off-sets, ventilation system and air quality, and proposed water system use and conservation.

We approve Section 9.26 (E)(4)(e) but the Town must ensure that it is applied consistent with the CCC regulations, 935 CMR 500.000 *et seq*. The CCC regulations impose requirements related to energy efficiency and conservation. See e.g. 935 CMR 500.103 (b) (requiring an applicant to submit an energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation); 935 CMR 500.105 (1)(q) (requiring a marijuana establishment to have a detailed written operating procedure that includes policies and procedures for energy efficiency and conservation); 935 CMR 500.105 (15) (requiring an applicant to demonstrate consideration of the factors related to energy efficiency and conservation as part of its operating plan and application for licensure); and 935 CMR 500.120 (11) (requiring a cultivator to “satisfy minimum energy efficiency and equipment standards established by the Commission” and be subject to minimum energy efficiency and equipment standards established by the CCC.)

The Town must ensure that any special permit application requirements imposed under Section 9.26 (E)(4)(e) are consistent with the CCC regulations. The Town should consult with Town Counsel regarding this issue.

### II. Section 18 – Definitions

Article 19 amends Section 18, “Definitions,” to delete the definitions for: (1) independent testing laboratory; (2) marijuana product manufacturer; (3) marijuana products; (4) marijuana retailer and (5) marijuana transporter and to amend the definitions for (1) marijuana establishment and (2) medical marijuana treatment center. The amended definition for medical marijuana treatment center now provides as follows (new text in underline and deleted text in strikethrough):





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Medical Marijuana Treatment Center Registered Marijuana Dispensary: The site or sites where a not-for-profit entity, as defined under Marijuana Treatment Center in 105 CMR 725.000 of the Massachusetts Department of Public Health, as it may be revised, replaced or amended from time to time, cultivates, prepares or possesses medical marijuana and marijuana products, and where it dispenses medical marijuana and marijuana products to registered qualifying patients or their personal caregivers.

As a result of this change, the only text before the Attorney General for review and approval is the deletion of the text "Registered Marijuana Dispensary" and the insertion of the new text "Medical Marijuana Treatment Center." We approve this amendment because we find no conflict with state law. See *Amherst v. Attorney General*, 398 Mass. 793, 795-96 (1986) (requiring inconsistency with state law or the constitution for the Attorney General to disapprove a by-law.)

However, the Town should consult with Town Counsel regarding the Town's existing definition of a MTC (which is not before us for review and approval under G.L. c. 40, § 32). The definition's requirement that the MTC be a not-for-profit entity conflicts with the CCC regulations, 935 CMR 500.002 and 935 CMR 501.002 that no longer requires a MTC to be a not-for-profit entity.<sup>1</sup> See *West Street Associates LLC*, 488 Mass. at 319 (invalidating town by-law that required MTC to be non-profit because of conflict with CCC regulations).

In addition, the Town's existing definition of MTC references 105 CMR 725.000 and the Department of Public Health (DPH). However, as a result of Chapter 55 of the Acts of 2017 ("An Act to Ensure Safe Access to Marijuana"), the administration and oversight of medical marijuana use was transferred from the DPH to the CCC. As part of the transfer of oversight and administration from DPH to CCC, 105 CMR 725.000 *et seq.* has been superseded by the CCC regulations governing marijuana use at 935 CMR 500.00 ("Adult Use of Marijuana") and 935 CMR 501.00 ("Medical Use of Marijuana"). The Town may wish to update this citation at a future Town Meeting. The Town should consult with Town Counsel on these issues.

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<sup>1</sup> The CCC regulations, 935 CMR 501.002, now define a MTC as follows:

Medical Marijuana Treatment Center (MTC), formerly known as a Registered Marijuana Dispensary (RMD)), means an entity licensed under 935 CMR 501.101 that acquires, cultivates, possesses, Processes (including development of related products such as Edibles, MIPs, Tinctures, aerosols, oils, or ointments), Repackages, transports, sells, distributes, delivers, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to Registered Qualifying Patients or their Personal Caregivers for medical use. Unless otherwise specified, MTC refers to the site(s) of dispensing, cultivation, and preparation of Marijuana for medical use.



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**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

ELIZABETH N. DEWAR  
ACTING ATTORNEY GENERAL

*Nicole B. Caprioli*

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cc: Town Counsel Katharine L. Klein