

Richmond Planning Board Meeting  
Town Hall  
Minutes  
August 13, 2018

Members present: Rick Bell, Adeline Ellis, John Hanson (Vice Chairman), Katherine Keenum, John Vittori (Chairman)

Others present: Joseph McGovern, CEO, Boys and Girls Club of the Berkshires; Mike Hoffman, Boys and Girls Club of the Berkshires; Tim Armstrong, Hill Engineers, Dalton, Mass.; Neal Pilson, Richmond Board of Selectmen; Christian Hanson, Balderdash Cellars, Richmond

Mr. Hanson opened the meeting at 6:30 P.M. He explained that he was taking the chair because Mr. Vittori had been prevented by illness from preparing for the meeting and must, in any case, recuse himself action on the Farm Functions Zoning Change. Mr. Vittori then announced that he would be moving to New Bedford, Mass., at the end of October 2018, although he would be returning to Richmond from time to time until his property, Hilltop Orchard, sold.

1. The first item of business on the agenda was a **proposed subdivision of property owned by the Boys and Girls Club of the Berkshires**. Mr. Armstrong presented a completed *Form C: Application for Approval of Definitive Plan*, paper copies of the plan of the land in question with its existing house on East Beach Road, and a check for \$200.00. Mr. McGovern confirmed that the club intended to sell the subdivided lot and existing house, which would return that property to the Town of Richmond's tax rolls.

Mr. Hanson explained that the proposed subdivision did not meet the requirements for a separate lot in its present RA-C zone but the new lot would do so in the adjoining Richmond Shores (RS) zone. The only way to work the subdivision would be a two-part process involving, on the one hand, approval of the subdivision after a public hearing and, on the other hand, a change to the zoning map to place the subdivided lot in the RS zone. Key dates in the process:

- September 6, 2018: Public hearing on the subdivision plan followed by a meeting of the Planning Board at which a vote on conditional approval will be taken
- September 17, 2018: Public hearing on the necessary zoning change
- September 22, 2018: Deadline for any objection to the subdivision plan from the Board of Health
- October 30, 2018: Special Town Meeting, at which a vote on the zoning change will be taken
- November 5, 2018: Meeting of the Planning Board at which a vote on the subdivision plan will be taken
- December 10, 2018: Meeting of the Planning Board and final approval of the subdivision plan after the twenty days required by law.

Mr. Hanson made a motion for a vote to hold a public hearing on September 6, 2018, to move the process forward. Mr. Bell seconded the motion. The motion carried unanimously.

2. As the second item of business, Mr. Hanson opened a review of changes and comments made by Town Counsel on the draft of a **Farm Function Zoning Change**. With a goal of holding a public hearing on the proposal on September 17, 2018, he recommended accepting the changes in their entirety as represented in Exhibit 1 except in instances where there was very good reason to reject or to make a different change. In the course of the discussion, three such instances emerged:

- Mr. Bell noted that the final document incorporating the Town Counsel’s comments contained a misplaced line under Section 4.8.B, which would have to be corrected.
- Mr. Hanson suggested a new addition to the proposed Section 4.8.B.16.a. The draft reads, “The farm shall have 15 acres of land at the site.” Mr. Hanson proposed adding the sentence, “The land total shall include all adjoining and adjacent lots and the lot used for a dwelling if any.” He explained that some farms are made up piecemeal of more than one lot, including parcels separated by roads.
- For the change to Chapter X, Section 9 of the Richmond Town By-Laws, Mr. Hanson advocated retaining the language of the original draft, *may require*, instead of adopting Town Counsel’s recommended change to *shall hold* in the sentence beginning “The Selectmen may require a public hearing to consider any application filed under this section ...”

Mr. Hanson made a motion to move forward to a public hearing on September 17, 2018, by accepting the clean copy submitted by Town Counsel with the necessary typographical correction, the additional description of acreage, and retention of the words *may require* in Section 9. Mr. Bell seconded. The motion passed unanimously.

3. As a third item of business, Mr. Hanson opened a review of the emendations and comments made by Town Counsel on the draft of a **Marijuana Zoning By-Law**. He observed that these were much more extensive than those on the Farm Function Zoning Change and said that most were worth adopting. In the course of the discussion, three items emerged that required action:

- For Section 12.4.1, on the location of permitted facilities, Mr. Hanson recommended that wording contained in a comment from Town Counsel be adopted in the final draft to be presented to the public: “A Medical Marijuana Treatment Center or Marijuana Establishment shall not be sited within a radius of five hundred (500) feet of a school, daycare center, or any facility in which children commonly congregate.”
- For Section 12.5.3, in response to a query from Town Counsel, Mr. Hanson recommended new wording: “All finished marijuana or marijuana products shall be stored in a secure, locked safe or vault and in such a manner as to prevent diversion, theft, or loss.”
- For Section 12.7.3, Ms. Keenum pointed out that the Town Counsel’s changes resulted in the verb *show* instead of a noun as needed to be parallel to Sections 12.7.1 and 12.7.2. Mr. Vittori suggested the wording “*a plan showing* all signage, exterior proposed security measures, etc.”

Mr. Hanson made a motion to move forward to a public hearing on September 17, 2018, by accepting the clean copy submitted by Town Counsel with substitute wording for Sections 12.4.1, 12.5.3, and 12.7.3. Mr. Bell seconded. The motion passed unanimously.

As an action item Mr. Hanson was given the task of making the necessary changes to the drafts of the Farm Function Zoning Change and Marijuana Zoning By-Law, transmitting the new drafts to Mark Pruhenski, the Town Administrator, and posting the necessary legal notices and announcements of public hearings.

4. The fourth item of business was the annual **election of Planning Board officers:**

Mr. Bell made a motion to nominate **Mr. Hanson as chairman**; Ms. Ellis seconded. The motion carried 4–0, with Mr. Hanson abstaining.

Mr. Bell made a motion to nominate **Ms. Keenum as clerk**; Ms. Ellis seconded. The motion carried 4–0, with Ms. Keenum abstaining.

Ms. Keenum made a motion to nominate **Mr. Bell as delegate to the Berkshire Regional Planning Commission (BRPC)**. Ms. Ellis seconded. Mr. Bell said he would accept the nomination on condition that an effort was made to seek the alternate delegate from another town board, e.g., the Board of Appeals. Mr. Hanson recommended that the Planning Board continue to fill both positions as has been done in the past, but Ms. Ellis, Ms. Keenum, and Mr. Vittori supported Mr. Bell's suggestion. Mr. Hanson said he would ask Mr. Pruhenski, to try to find an alternate delegate. The motion to elect Mr. Bell carried 4–0, with Mr. Bell abstaining.

Mr. Hanson made a motion to nominate **Mr. Vittori as vice chairman**. Ms. Ellis seconded. The motion carried 4–0 with Mr. Vittori abstaining.

5. The fifth item of business was **a vote on the minutes for June 4, 2018**. Ms. Ellis expressed doubts about a sentence, and Ms. Keenum suggested striking it. Mr. Hanson moved that the minutes of June 4, 2018, be accepted with the deletion of the sentence in question. The motion passed 4–0, with Ms. Keenum abstaining.

6. The fifth sixth of business was **a vote on the minutes for July 16, 2018**. The misspelling of a name was pointed out. Mr. Hanson moved that the minutes of June 4, 2018, be accepted with a correction of the error. The motion passed 3–0, with Mr. Bell and Ms. Keenum abstaining.

Mr. Hanson adjourned the meeting at 9:10 P.M.

Respectfully submitted,  
Katherine Keenum, Clerk

EXHIBIT 1 Clean Copy of Farm Function Zoning Change incorporating alterations suggested by Town Counsel as received by John Hanson on August 1, 2018.

## Farm Function Zoning Change- Draft July 15, 2018

### **Add definition as follows:**

FARM FUNCTION: Any event or concert held on a farm (see definition of a farm, in the Right to Farm By-Law, Chapter XIII, Section 2 of the Richmond Town Bylaws), including but not limited to, weddings and family celebrations for which a fee is paid, concerts, promotional events, and other activities held for a fee on farms of sufficient size. Farm functions supplement farm income in order to promote the sustainability of farming, enhance our community and preserve open space.

### **Add section as follows:**

Section 4.8 B. PERMITTED ACCESSORY USES	RA-A	COMM1
<u>Continued:</u>	RA-C	SR COMM2
	YES	NO NO

Structures, for the purpose of holding Farm Functions, 16. The use of a farm, as defined in the Right to Farm By-Law, Chapter XIII, Section 2 of the Richmond Town Bylaws, including, but not limited to, land, buildings, or other provided that:

- a) The farm shall have 15 acres of land at the site.
- b) The side, front and rear setbacks for the function shall be a minimum of 100 feet.
- c) There shall be no electronically amplified sound except between the hours of 10:00 a.m. and 11:00 p.m.
- d) The Board of Selectmen shall issue an event permit per Chapter X, Section 9 of the Richmond Town Bylaws. The event permit may be for multiple farm functions per year. The Board of Selectmen shall hold a public hearing prior to issuing any first time event permit and the permit shall be for a maximum of two (2) years.
- e) There shall be no events having motorized vehicles racing or competing in active competitions. Passive events such classic car shows shall be permitted.

# TOWN OF RICHMOND

## TOWN BYLAWS

(Updated through May 2017)

### SECTION 9.

Any person or organization that seeks to conduct a special cultural, educational, fund raising or income-producing event, such as but not limited to, art shows, auctions, festivals, bazaars, community picnics, breakfasts, dinners, concerts, dance events, Farm Functions or similar events, is required to obtain approval from the Board of Selectmen if such event is to be held on or affect town streets, sidewalks, or property or require services beyond those the town provides its citizens under normal everyday circumstances. Farm Functions shall require approval from the Board of Selectmen. The Selectmen shall hold a public hearing to consider any application filed under this section and any permit issued may include conditions relating to hours of operation, attendance, public safety, traffic control, parking, noise, odor, lighting, impact on the neighborhood and on municipal facilities, and a requirement that the applicant post a bond. Any person or organization granted a permit under this section shall comply with all other local, state, federal licensing or permitting requirements for said event. Failure to obtain any required licenses or permits shall result in the revocation of the permit granted under this section and a fine of \$100.

EXHIBIT 2 Draft of Marijuana Zoning By-Law incorporating alterations suggested by Town Counsel as received by John Hanson on August 1, 2018

**Marijuana Zoning By-Law Draft 7/15/18**

**Add a new section as follows:**

SECTION 4.8 TABLE OF USE REGULATIONS

	<u>DISTRICTS</u>		
Section 4.8 A. PERMITTED PRINCIPAL USES	RA-A	SR	COMM1
<u>Continued:</u>	RA-C	SR	COMM2

16. Medical Marijuana Treatment Center and Marijuana Establishments .

a) One (1) Medical Marijuana Treatment Center provided that: No No SPS\*

1. The Board of Selectmen finds that the lot area is adequate for the proposed use, and the buildings, structures, off-street parking and other facilities and equipment are so designed and located as not to be detrimental to the neighborhood.
2. The requirements of Section 12 of this By-Law are met.

b) One (1) Marijuana Establishment, Marijuana Retailer , provided that: No No SPS\*

1. The Board of Selectmen finds that the lot area is adequate for the proposed use, and the buildings, structures, off-street parking and other facilities and equipment are so designed and located as not to be detrimental to the neighborhood.
2. The requirements of Section 12 of this By-Law are met.

c) Marijuana Establishment, Marijuana Cultivator using Indoor Cultivation, or Craft Cultivator Cooperative using Indoor Cultivation provided that:

No No SPS\*

1. The total cumulative area of enclosed building or buildings, greenhouses or other structures for cultivation shall not exceed 10,000 square feet.
2. The total number of permits issued for all types of cultivation shall not exceed five (5) and shall only be issued to separate owners.

3. The Board of selectmen finds that the lot area is adequate for the proposed use, and the buildings, structures, off-street parking and other facilities and equipment are so designed and located as not to be detrimental to the neighborhood.

5. The requirements of Section 12 of this By-Law are met.

d) Marijuana Establishment, Marijuana Cultivator using Outdoor Cultivation, or NO NO NO Craft Marijuana Cultivator Cooperative using Outdoor Cultivation.

e) Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Product Manufacturer, Marijuana Transporter, or Marijuana Microbusiness, as defined in 935 CMR 500.02.

NO NO NO

**\* Only permitted in the COMM1 district.**

**Add a new section as follows:**

**Section 12: MEDICAL MARIJUANA TREATMENT CENTERS AND MARIJUANA ESTABLISHMENTS**

**12.1 Purpose**

To provide for the placement and regulation of Medical Marijuana Treatment Centers in suitable locations in Richmond in accordance with Chapter 369 of the Acts of 2012 (Humanitarian Medical Use of Marijuana Act), G.L c.94I (Medical Use Of Marijuana), and in compliance with regulations 105 CMR 725.000, et seq. This bylaw also provides for the placement and regulation of other Marijuana Establishments under G.L. c.94G (Regulation of the Use and Distribution of Marijuana Not Medically Prescribed) and in compliance with the regulations promulgated by the Massachusetts Cannabis Control Commission (CCC) found at 935 CMR 500.00 et seq.

**12.2 Definitions**

**MEDICAL MARIJUANA TREATMENT CENTER:** An not-for-profit entity registered under 105 CMR 725.100, also known as a registered marijuana dispensary (RMD), that meets the definition set forth in 935 CMR 500 (Medical Marijuana Treatment Center).

**MARIJUANA ESTABLISHMENT:** A marijuana cultivator, craft marijuana cultivator cooperative, independent testing laboratory, marijuana transporter, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business registered, approved, and regulated in accordance with the regulations of the CCC.

**MARIJUANA CULTIVATOR:** An entity licensed to cultivate, process and package marijuana, to deliver marijuana to Marijuana Establishments and to transfer marijuana to other Marijuana Establishments, but not to consumers.

**MARIJUANA RETAILER:** An entity licensed 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.

**CRAFT MARIJUANA CULTIVATOR COOPERATIVE:** A Marijuana Cultivator comprised of residents of the Commonwealth organized as a limited liability company or limited liability partnership under the laws of the Commonwealth, or an appropriate business structure as determined by the commission, and that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to Marijuana Establishments but not to consumers.

**FULLY ENCLOSED AND SECURE STRUCTURE:** A space within a building, greenhouse or other legal structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and is inaccessible to minors.

**INDOOR CULTIVATION:** Any cultivation of marijuana within the Town of Richmond that is within a Fully Enclosed and Secure Structure as defined in this section.

**OUTDOOR CULTIVATION:** Any cultivation of marijuana within the Town of Richmond that is not within a Fully Enclosed and Secure Structure.

All additional terms used, but not defined in this Bylaw, shall have the same meaning as defined in the applicable governing statutes and regulations, including said chapters 94I and 94G of the General Laws and the regulations of the CCC.

#### 12.3 Site Plan Review Required

All proposed Medical Marijuana Treatment Centers, and Marijuana Establishments shall be subject to Planning Board Site Plan Review.

#### 12.4 Location Requirements

Medical Marijuana Treatment Centers and Marijuana Establishments may be located in accordance with Section 4.8 A Permitted Principal Uses, Table of Use Regulations, except as follows:

1. None may be located closer than 500 feet from a pre-existing public or private school providing education in kindergarten or any of grades 1 through 8., or any public library, playground or child care center.

2. The distance in paragraph 1 is to be measured in a straight line from the nearest point of the property line of the proposed Medical Marijuana Treatment Center or Marijuana Establishment to the nearest point of the property line of the protected school, public library or playground.

#### 12.5 Physical Requirements

In addition to meeting the requirements of the CCC, both Medical Marijuana Treatment Centers and other Marijuana Establishments in Richmond shall comply with the following:

1. Cultivation of marijuana shall take place at a fixed secure location within a Fully Enclosed and Secure Structure.
2. Acquisition, processing, sales, distribution, dispensing, or administration of marijuana shall take place at a fixed location within a Fully Enclosed and Secure Structure and shall not be visible from the exterior of the business. This provision applies also to the sale and distribution of products containing marijuana, marijuana accessories and related supplies, and marijuana educational materials.
3. No unprotected storage of marijuana, related supplies, or educational materials is permitted.
4. Any marijuana cultivation area regulated under this section shall not result in a nuisance or adversely affect the health, welfare, or safety of the nearby residents by creating dust, glare, heat, noise, noxious gases, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

#### 12.6 Use Regulations

In addition to pertinent requirements of implementing regulations of the CCC, Medical Marijuana Treatment Centers, and Marijuana Establishments shall comply with the following:

1. Uses under this Section may only consist of the uses and activities permitted by their definition as limited by state law.
2. No marijuana shall be smoked, eaten or otherwise consumed or ingested on the premises.
3. Retail sales of marijuana products and opening of the premises to the public shall not occur earlier than 10:00 AM or later than 8:00 PM.
4. Additional regulations may be imposed as Site Plan Review or Special Permit conditions.

#### 12.7 Submittal Requirements

In addition to a standard application for Site Plan Review and Special Permit, an application under this section shall include the following:

1. Copies of all required Marijuana Establishment or Medical Marijuana Treatment Center licenses or registrations issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility;
2. Evidence that the applicant has site control and the right to use the site for a facility in the form of a deed, valid lease, or purchase and sale agreement, and a signed statement from the property owner;
3. Show all signage, exterior proposed security measures for the premises, including cameras, lighting, fencing, gates, alarms, and other devices intended to ensure the safety of employees and patrons and to protect the premises from theft or other criminal activity.

#### 12.8 Approval Process

Applicants should plan to obtain licences, approvals and permits in the following sequence unless the Planning Board and Board of Selectmen approve an alternate sequence:

1. Host community agreement.
2. Licenses or registrations issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility;
3. Site plan approval.
4. Special permit.

12.9 Discontinuance of Use

Any Marijuana Establishment or Medical Marijuana Treatment Center permitted under this section shall be required to remove all material, plants, equipment and other paraphernalia in compliance with implementing regulations of the CCC prior to expiration of its operating license or permit issued by the Commonwealth of Massachusetts or immediately following revocation or voiding of such license or permit. The host community agreement shall include provisions for recovery of any cost incurred by the Town of Richmond resulting from the discontinuance of use.

**Change existing Sections as follows:**

**1. Replace existing section with the following:**

**3.1 Number and Type of Districts**

For the purpose of this By-Law, the Town of Richmond is divided into the following districts:

RA-A Residential-Agricultural District A

RA-C Residential-Agricultural District C

SR Shore-Residence Districts

**COMM1 Commercial District**

**COMM2 Commercial District**

FWL Flood-Prone Areas and Wetlands

WTOD Wireless Telecommunications Overlay District

LSPOD Large-scale ground-mounted Solar Photovoltaic Installation Overlay District

**2. Update the existing section 3.2 to insert a new publication date when the date is determined.**

3.2 The location and boundaries of the districts (not including overlay districts) are hereby established as shown on the map entitled "Zoning Map of Richmond, Massachusetts, dated \_\_\_\_\_", with all explanatory matter thereon is made a part of this By-Law, and is on file in the Town Clerk's office. Separate from the amendment of districts, said map may be published in an updated form.

**3. Change the "Zoning Map of Richmond" to show the commercial district as having two locations, one designated COMM1 and located at the post office and fire station, and the second designated COMM2 located in the Richmond Furnace area. The change shall be only to the color coding of the map and the legend of the map, and not the size, scope or configuration of the district areas or the boundaries shown on the map itself.**

4. Change all DISTRICTS headers to replace COMM with COMM1 and COMM2 as shown in example below:

SECTION 4.8 TABLE OF USE REGULATIONS

DISTRICTS  
RA-A **COMM1**  
RA-C SR **COMM2**

Section 4.8 A. PERMITTED PRINCIPAL USES

Section 4.8 B. PERMITTED ACCESSORY USES

DISTRICTS  
RA-A **COMM1**  
RA-C SR **COMM2**

