

Richmond Planning Board Meeting Minutes

Date: 07-16-18

Place: Richmond Town Hall

Meeting purpose: To conduct business per latest posted Planning Board (PB) agenda

Type of meeting (Regular, Special, Emergency, or Joint): Regular

Public Hearing (Yes or No): No

Start Time/Called to Order By: 6:30 pm/ John Hanson

Adjourn Time: 8:59 pm

PB Members Present:

John Hanson (Vice Chair), Rick Bell, Adeline Ellis

PB Members Absent:

John Vittori (Chair), Katherine Keenam (Clerk)

Other Attendees:

Name	Address	Business Name (if any)	Representing
Carl Dunham	New Milford, CT	Inn at Richmond, 802 State Road, Richmond, MA and Berkshire Equestrian Center, 40 Perry's Peak Road, Richmond, MA	
John Sottile	41 Barlett Ave, Pittsfield, MA	Inn at Richmond (manager)	
Christian Hanson	75 Leona Drive, Pittsfield, MA	Balderdash Cellars and Primadonna, LLC at 81 State Road, Richmond, MA	

Application Submittal Business:

None

PB Internal Business:

Item #1 – Discuss formulation of new marijuana by-law

- **Summary:** Exhibit 1 (Marijuana Zoning By-Law Draft 7-15-18) was discussed. Mr John Hanson presented Exhibit 1 and stated that the goal of today was to reach final language for this by-law so that Town Counsel can review. Mr Dunham and Mr Sottile asked the PB if they can provide their inputs. After listening to the inputs of the public, the PB decided on changes to the 7-15-18 by-law draft. Details and key points are as follows:
 - In the opinion of Mr Dunham, the current draft by-law restricts marijuana to Commercial District 1 so much that there is no place to cultivate marijuana and he thinks that the MA Attorney General may reject the zoning change based on this restriction. He thought that it was in the best interest of the town to extend marijuana by-law districts beyond Commercial District 1 to certain agricultural areas.
 - Mr Dunham stated that he may want to liquidate his property in such a manner that he would sell pre-buy options for use of his property/land (similar to a timeshare) and that he had a phone call from a doctor with an interest in medical marijuana on his property. He also stated that, if the by-law allows, he could use the indoor arena of the Berkshire Equestrian Center to cultivate marijuana.
 - Mr Sottile stated that the PB should consider the impact to the town, which should be none, as all marijuana activity would be inside and not noticable.
 - Mr John Hanson thanked Mr Dunham and Mr Sottile for their inputs and stated that they should attend the planned public hearing on this proposed by-law and express their positions on the latest by-law language.

Richmond Planning Board Meeting Minutes

- Ms Ellis suggested section 12.9 be expanded to include a statement regarding reimbursement to the town for expenses incurred in discontinuance, if any.
- The PB then decided on the changes to the draft (exhibit 1) and voted to accept them and send to Town Counsel for review.
- Decision(s):
 - The following changes were decided: Section 3.1, delete the words North and South; Section 3.2 (first paragraph), delete the word TBD; Section 3.2 (second paragraph), change the words color coding to legend and delete the words description table; Section 12.9 add language for reimbursement to the town for expenses occurred in discontinuance, if any; and split the Richmond Zoning Map COMM legend into COMM1 and COMM2 and a new color added.
 - A motion was made to send to Town Counsel the 7-15-18 draft (exhibit 1) as amended and recorded in the minutes. The motion was seconded and the vote was unanimously approved.
 - The following key planned dates were agreed ed:
 - 08-13-18 – PB meeting to approve the marijuana zoning by-law
 - 09-17-18 – PB meeting and public hearing for the marijuana by-law
 - 10-15-18 – PB meeting to make adjustments to marijuana zoning by-law, if needed, prior to Town meeting
- Action(s) Assigned:
 - Mr Hanson – Make the approved changes to the marijuana by-law and provide the revised draft to the Town Administrator for forwarding to Town Counsel for review. Date Due: As soon as possible.

Item #2 – Discuss Formulation of new by-law regarding events on farms

- Summary: Exhibit 2 (Farm Function Zoning Change Draft 7-15-18) was discussed. Mr John Hanson stated that the goal of today was to reach final language for this by-law so that Town Counsel can review. Mr C. Hanson asked the PB if he can provide his inputs. Mr Duhman and Mr Sottie stayed for this agenda item and also commented. After listening to the inputs of the public, the PB decided on changes to the 7-15-18 by-law draft and the language to the Town by-law Section 9 (Events). Details and key points are as follows:
 - Mr C. Hanson asked that Section 16a be changed from 25 acres to 15 acres since his farm is less than 25 acres. He stated that he was happy with the rest of the draft by-law.
 - Mr Dunhan concurred with Mr C. Hanson's suggestion that a farm have 15 acres or more as a restriction in order to hold a farm event.
 - Mr Sottie suggested that a dB limit on noise be added to the restrictions to which Mr John Hanson responded that zoning is not a good place for this restriction and that the BOS can add restrictive conditions in a Special Permit.
 - The PB then decided on the changes to the draft (exhibit 2), and the language of Section 9 (Events) of the Town by-law and voted to accept them and send them to the Town Counsel for review.
- Decision(s):
 - The following changes were decided: Section 4.8B 16a, change the sentence to read "The farm shall has 15 or more acres of land at the site"; and Section 4.8B 16b, change the sentence to read "The side, front, and rear setbacks for the function shall be a minimum of 100 feet."
 - A motion was made to send to Town Counsel the 7-15-18 draft (exhibit 2) as amended and recorded in the minutes. The motion was seconded and the vote was unanimously approved.
 - The following key planned dates were agreed:
 - 08-13-18 – PB meeting to approve the farm function zoning by-law
 - 09-17-18 – PB meeting and public hearing for the farm function by-law and town by-law section 9 (Events).
 - 10-15-18 – PB meeting to make adjustments to the farm function zoning by-law, if needed, prior to Town meeting
- Action(s) Assigned:
 - Mr Hanson – Make the approved changes to the farm function zoning by-law and provide the

Richmond Planning Board Meeting Minutes

revised draft to the Town Administrator for forwarding to Town Counsel for review. Date Due: As soon as possible.

Item #3 – PB content on Richmond Website PB page(s)

- Summary: In response to an action item from the June PB meeting, Mr Bell presented Exhibit 3 (Planning Board Content proposed for the Richmond Website PB page[s] – Draft 07-15-18). The content was briefly discussed but there was no time at the meeting to get into details. Mr Bell stated that the new Richmond website has minimum content for the PB and other boards and the PB could take the lead in moving forward with content that we see appropriate. PB members were requested to provide comments at or before the next PB meeting.
- Decision(s): None
- Action(s) Assigned: None

Approval of Minutes:

- Summary: Approval of the June minutes was deferred to the next PB meeting in August since author of the minutes (the clerk) was not present.
- Decision(s): A motion was made and seconded to table the minutes. The vote was unanimously in favor.
- Action(s) Assigned: None

Name of documents/other exhibits used at the meeting:

- a) Agenda for this meeting
- b) Exhibit 1 – Marijuana Zoning By-Law Draft 7/15/18
- c) Exhibit 2 – Farm Function Zoning Change – Draft July 15, 2018 (includes Section 9 of the Town by-law)
- d) Exhibit 3 – Planning Board Content proposed for the Richmond Website PB page[s] – Draft 07-15-18

Minutes written by: Richard Bell

Minutes Status (Draft mm-dd-yy or Approved): Approved

Date Minutes Approved: 09-13-18

Richmond Planning Board Meeting Minutes

Exhibit 1 – Marijuana Zoning By-Law Draft 7/15/18

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, retail, 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, indoor cultivation, or indoor craft cultivation cooperative, 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.

Richmond Planning Board Meeting Minutes

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.

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

d) Marijuana Establishment, outdoor cultivation, or outdoor craft cultivation cooperative. NO NO NO

e) Marijuana independent testing laboratory, marijuana research facility, marijuana product manufacturer, marijuana transporter, marijuana microbusiness, or craft marijuana cooperative.

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 G.L c.94I (Medical Use Of Marijuana), and, further, to provide 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).

12.2 Definitions

MEDICAL MARIJUANA TREATMENT CENTER: A premises approved under a medical use marijuana license by the Cannabis Control Commission or as otherwise authorized by state law (also known as a Registered Marijuana Dispensary) for the sale of marijuana or marijuana products.

MARIJUANA ESTABLISHMENT: A marijuana cultivator, craft marijuana 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 Massachusetts Cannabis Control Commission and/or pursuant to all other applicable state and local laws and regulations.

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.

Richmond Planning Board Meeting Minutes

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 inaccessible to minors.

INDOOR CULTIVATION: Cultivation within a fully closed and secure structure as defined in this section.

OUTDOOR CULTIVATION: Any cultivation within the Town of Richmond that is not within a fully enclosed and secure structure.

Additional terms are defined in the applicable governing statutes and regulations, including said chapters 94I and 94G of the General Laws and the regulations of the Cannabis Control Commission.

12.3 Site Plan Review Required

All proposed Medical Marijuana Treatment Centers, and other Marijuana Establishments shall be subject to Planning Board Site Plan Review as set forth in Section 6.10.

12.4 Location Requirements

Medical Marijuana Treatment Centers and other 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 Massachusetts Cannabis Control Commission, both Medical Marijuana Treatment Centers and other Marijuana Establishments in Richmond shall comply with the following:

Richmond Planning Board Meeting Minutes

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 building 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 Massachusetts Cannabis Control Commission, 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

Above and beyond the 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. In addition to what is normally required in a site plan pursuant to Section 6.10, submittal shall also include details showing 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.

Richmond Planning Board Meeting Minutes

12.8 Approval Process Sequence

Applicants should plan to obtain licenses, 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 Cannabis Control Commission 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.

Change existing Sections as follows:

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 North

COMM2 Commercial District South

FL Flood-Prone Areas and Wetlands

WTOD Wireless Telecommunications Overlay District

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

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 **TBD**", 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.

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 description table, and not the size, scope or configuration of the district areas or the boundaries shown on the map itself.

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

SECTION 4.8 TABLE OF USE REGULATIONS

DISTRICTS

Richmond Planning Board Meeting Minutes

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**

Richmond Planning Board Meeting Minutes

Exhibit 2 – Farm Function Zoning Change – Draft July 15, 2018

Farm Function Zoning Change- Draft July 15, 2018

Add definition as follows:

FARM FUNCTION: Any event or concert held on a farm, under the 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, family celebrations, concerts, farmer’s markets, promotional events, and other activities held on farms, of sufficient size, in order to promote the sustainability of farming, enhance our community and the preserve open space.

Add section as follows:

Section 4.8 B. PERMITTED ACCESSORY USES	RA-A	COMM1
<u>Continued:</u>		<u>RA-C SR COMM2</u>
16. The use of land, buildings, or other structures for the purpose of holding Farm Functions, only when incidental to, or in connection with, the principal use as a farm, provided that:	YES	NO NO

- a) The farm shall have 25 acres of land at the site.
- b) The side, front 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. Renewal of an existing permit shall not require a public hearing and the renewal permit shall be for a maximum of five(5)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.

Richmond Planning Board Meeting Minutes

TOWN OF RICHMOND

TOWN BYLAWS

(Updated through May 2017)

SECTION 9. (**add changes in bold**)

Any person , organization **or farm** 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 may be 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 may require 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, organization **or farm** 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.

Richmond Planning Board Meeting Minutes

Exhibit 3 – Planning Board Content proposed for the Richmond Website PB page[s] – Draft 07-15-18

Home > Boards & Committees > Boards & Commissions > Planning Board																				
Planning Board																				
<p style="color: red; font-size: small;">Column 1 could be used for other content or links as needed</p> <p>XXXXXX</p> <p>XXXXXX</p>	<p>Purpose</p> <p>The purpose of the Planning Board can be separated into two different categories: (1) permitting/approvals and (2) planning. A Planning Board is tasked with developing and implementing land use regulations such as the zoning by-law and the subdivision control regulations through the issuance of permits/approvals. Equally important, the Planning Board is tasked with planning for the future growth, development and preservation of a municipality's physical resources.</p> <p>Key Responsibilities</p> <ul style="list-style-type: none"> Review and act on Approval Not Required (ANR) Plans Review and act on Preliminary and Definitive Plans for subdivisions Review and act on Site Plan Reviews Act as a Special Permit Granting Authority, when applicable Review/prepare amendments to the Richmond Zoning By-Law Other duties as authorized/required by Massachusetts General Laws (M.G.L.) (e.g. follow Public Records Law, Open Meeting Law, etc.) Click HERE for other responsibility details (TBSL) <p>Meeting Agendas and Minutes documents</p> <ul style="list-style-type: none"> Planning Board meets the 2nd Monday of the month at 6:30 PM in the Town Hall. Links: Click HERE for meeting notice (agenda) calendar and for meeting minutes. <p>Members</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: left; font-weight: normal;">Position:</th> <th style="text-align: left; font-weight: normal;">Serving Since:</th> </tr> </thead> <tbody> <tr> <td>• John Vittori</td> <td>Chair</td> <td>1996</td> </tr> <tr> <td>• John Hanson</td> <td>Member</td> <td>1980</td> </tr> <tr> <td>• Adeline Ellis</td> <td>Member</td> <td>2016</td> </tr> <tr> <td>• Richard Bell</td> <td>Member</td> <td>2012</td> </tr> <tr> <td>• Katherine Keenum</td> <td>Member</td> <td>2015</td> </tr> </tbody> </table> <p>Contact Us</p> <ul style="list-style-type: none"> For more information call 413-698-3355. Mail to: Planning Board 1529 State Road Richmond, MA 01254 		Position:	Serving Since:	• John Vittori	Chair	1996	• John Hanson	Member	1980	• Adeline Ellis	Member	2016	• Richard Bell	Member	2012	• Katherine Keenum	Member	2015	<p style="color: red; font-size: small;">Column 3 can be used for other content or links as needed</p>
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<p>Applications/Fees</p> <ul style="list-style-type: none"> Applications to the Planning Board may be accessed on-line (see link below) or a hard copy may be pickled-up at the Town Hall. Complete and submit as required. Link: Click HERE for PB application form fees. Links to application forms used by the Planning Board:: <ul style="list-style-type: none"> Application for Approval Not Required – Form A Application of Approval of Preliminary Form -- Form B Application for Approval of Definitive Plan – Form C Application for a Site Plan Review Application for a Special Permit (where PB is the Special Permit Granting Authority) Application for Scenic Roadway Modification Permit <p>Town documents used by Planning Board</p> <ul style="list-style-type: none"> Richmond Town By-Laws (2015) Richmond Zoning By-Laws (2014) Richmond Subdivision Rules and Regulations (1990) Richmond Master Plan (1996) Open Space and Recreation Plan (OSRP) (2016) Community Development Plan (2003) – no longer active Planning Board Procedures Manual (DRAFT) <p>Useful Links</p> <ul style="list-style-type: none"> Public Access to Real Property in Richmond Official Richmond Town Zoning Map 																				