



TOWN OF HOPEDALE
ZONING BOARD OF APPEALS
TOWN HALL
78 HOPEDALE STREET
HOPEDALE, MA 01747

Christopher P. Hodgens, Chairman
Nicholas A. Alexander, Member
Sandra E. Biagetti, Member
Louis J. Costanza, Member
Scott M. Savage, Member
Mary T. Arcudi, Alternate

MINUTES OF MEETING
AUGUST 18, 2021

The Hopedale Zoning Board of Appeals (ZBA) convened a public meeting on Wednesday, August 18, 2021, at 7:00 p.m., in the Draper Room of the Hopedale Town Hall at 78 Hopedale Street, Hopedale, MA. The meeting was recorded, and participation was made available through the following Zoom link:

Join Zoom Meeting

<https://us02web.zoom.us/j/89428044314?pwd=SUFVVmo3V2UydVRoN014a3cyT2tHZz09>

Meeting ID: 894 2804 4314
Passcode: 439560

The Town Clerk posted the meeting notice and agenda on August 13, 2021.

The following members were in attendance and constituted a quorum: (1) Christopher P. Hodgens, (2) Nicholas A. Alexander, (3) Louis J. Costanza, and (4) Scott M. Savage.

Mr. Hodgens opened the meeting by updating members on a development that occurred just prior to the meeting. Under the Hopedale Zoning By-Laws, the ZBA has jurisdiction over virtually all special permit decisions. There are three exceptions where the Planning Board is responsible for special permits: (1) performance residential development, (2) flood plain district, and (3) adult retirement community. The remaining special permits situations (numbering in excess of 100) fall within the purview of the ZBA. The ZBA typically determines special permits for non-conforming uses and structures, home occupations, accessory apartments, off-street parking, lighting, signage, etc. At the 2021 Annual Town Meeting, residents voted to allow marijuana cultivation by special permit in certain districts. The Planning Board sponsored the article. The Planning Board chairman asked legal counsel for an opinion today regarding whether the Planning Board or the ZBA had jurisdiction to hear special permit applications for marijuana cultivation. Today, town counsel issued an opinion concluding that the ZBA has jurisdiction to issue special permits for marijuana cultivation.

A brief discussion followed. Mr. Costanza indicated that there remains an issue of whether the Planning Board should conduct site plan review before the ZBA takes up questions of special permits. Mr. Hodgins indicated that the question may be addressed in the future, but he only wanted to update the ZBA members on the legal opinion related to special permits.

Mr. Hodgins addressed the next item on the agenda. Lifted Genetics requested a continuance of the public hearing that began on July 28, 2021. Legal counsel for Lifted Genetics sent correspondence to the ZBA indicating a desire to further continue the public hearing into early September if possible. Counsel for Lifted Genetics signed a form entitled "Agreement Extending Time Limits for Public Hearing and Decision on Special Permit Application." Mr. Hodgins read the agreement for the benefit of the ZBA members and viewers, and signed the agreement on behalf of the ZBA. Mr. Hodgins noted that at the July 28 meeting, ZBA members agreed to continue the meeting into September if Lifted Genetics expressed such an interest.

Prior to selecting the new date, Mr. Hodgins updated ZBA members on additional correspondence received. High Hopes has filed a lawsuit against the ZBA. This lawsuit is the method of appealing the ZBA decision from July where the ZBA voted to correct a clerical error in a decision granting a special permit to High Hopes (a marijuana retailer). The ZBA also received a special permit application from Highpoint Engineering regarding the Rosenfeld Concrete property. The ZBA also received a special permit application from MACA Industries regarding a proposed marijuana cultivation facility on Condon Way.

After a discussion in which all members participated, ZBA members unanimously voted to schedule future hearings as follows (understanding that adjustments may be made): Lifted Genetics September 15, 2021, at 7:00 p.m. (sharing time with a continued hearing for the Long special permit application on Mendon Street); Highpoint Engineering, October 20, 2021, at 7:00 p.m.; and MACA Industries October 20, 2021, at 7:00 p.m. Mr. Savage, Mr. Alexander, and Mr. Costanza expressed an interest in keeping the tradition of meeting on the third Wednesday of each month. Such a schedule is helpful to the ZBA members in predicting availability and helpful to other town boards in determining availability for the Draper Room in the Town Hall. All understood, however, that adjustments may have to be made depending on various deadlines the ZBA must meet.

Moving to the next item on the agenda, the members all agreed to begin addressing the long-standing proposal to adopt rules of procedure to assist applicants in understanding the process and to facilitate the efficient processing of ZBA business going forward.

The members began reviewing a 3-page document with 16 numbered paragraphs. Members addressed and discussed each paragraph as follows:

Paragraph 1 Purpose. Following a brief discussion, Mr. Savage moved to adopt the paragraph as read by Mr. Hodgins. Mr. Alexander seconded. Vote to accept unanimous.

Paragraph 2 Scope. Following a brief discussion, Mr. Savage moved to adopt the paragraph as read by Mr. Hodgins. Mr. Alexander seconded. Vote to accept unanimous.

Paragraph 3 Filing. Following a brief discussion, Mr. Savage moved to adopt the paragraph as read by Mr. Hodgins. Mr. Alexander seconded. Vote to accept unanimous.

Paragraph 4 Fees. Mr. Costanza questioned whether we should wait to discuss this paragraph until other members were present. In particular, Mary Arcudi has expertise in dealing with the issue of fees. All members agreed by unanimous consent to pass over paragraph 4 until all members could discuss. Mr. Hodgins added that the intent of reviewing the proposed rules of procedure is simply to "get the ball rolling." We will be willing to take up any of the paragraphs again if members wish. We are not trying to cut anyone out of the process. We are just trying to make the best use of our time to move this process forward. All members agreed.

Paragraph 5 Form of Application. Following a brief discussion, all members agreed by unanimous consent to pass over paragraph 5 until all members could discuss.

Paragraph 6 Copies. Following a brief discussion, all members agreed by unanimous consent to pass over paragraph 6 until all members could discuss.

Paragraph 7 List of Abutters. Following a brief discussion, Mr. Savage moved to adopt the paragraph as read by Mr. Hodgins. Mr. Alexander seconded. Vote to accept unanimous.

Paragraph 8 Party Seeking Zoning Relief. Following a brief discussion, all members agreed by unanimous consent to pass over paragraph 6 until all members could discuss.

Discussion continued with Paragraph 9 regarding Burden of Proof. All members agreed that we should reach out to the Planning Board and the Conservation Commission to address some of the issues raised in order to help streamline the special permit application process.

At 8:18 p.m., after about 1 hour of discussion of the proposed rules, Mr. Costanza made a motion to adjourn, and all members agreed by unanimous consent.