

**TOWN OF LYMAN  
PLANNING BOARD MINUTES**

**Public Hearing and Regular Meeting**

**July 6, 2022**

**Note: These are summary minutes. A recording of the meeting is on file at the Lyman Town Hall and are posted on the Town's webpage. Minutes are not verbatim and may be paraphrased for clarity. Minutes are drafts until approved by the Planning Board.**

**SITE WALK**

The Planning Board conducted a site walk commencing at 6:00 pm, July 6, 2022, at 283 Middle Road to review the proposed wireless telecommunications tower on Map 4 Lot 43-5 proposed by Evolution Site Services LLC with their representative Christopher Ciolfi.

**PUBLIC HEARING CALL TO ORDER:** Vice Chair Donald Hernon called the Public Hearing to order at 6:55 pm, noting attendance of: Paul Boucher, Kelly Demers, Cecile Dupuis, and Joseph Wagner.

The meeting was recorded. No record of other attendees is available.

**DISCUSSION:**

**Proposed Zoning Changes** – The Board reviewed proposed Lyman Zoning Ordinance (LZO) changes shown below:

1. Amend LZO section 6.3.1 Allowed principal and accessory structures.

Proposed section was read; definition of accessory building was discussed. No negative comments were received.

2. Amend LZO section 1.8 to add language to the contract zoning amendment procedure.

Proposed section was read. Comments were received with questions on the possible interpretation of “will have beneficial effects on the Town as a whole...” which might be too subjective.

3. Amend LZO section 10.22 to change performance standards for medical marijuana. Proposed sections were read; comments summarized as follows:

- a. 10.22 A, Medical Marijuana Home Production Facilities, paragraph 4 - Add “A home production facility is limited to caregivers with a license from the State of Maine for thirty (30) plants”. No negative comments received.
- b. 10.22 A paragraph 6 - Change to eliminate sale or pickup of marijuana product at the home production facility. No negative comments received.
- c. 10.22 A paragraph 10 – Added section to give Code Enforcement Officer the authority to investigate marijuana odor complaints and require remediation if necessary. No negative comments received.
- d. 10.22 A paragraph 12 - Delete section concerning hours of pickup at the home production facility. One person wanted to leave this section in the ordinance but was told that this section would be not applicable if the change to section 10.22 A.6 was included.
- e. 10.22 B, Medical Marijuana Production Facility, paragraph 8 – Added section to eliminate dispensing or sales of medical marijuana from a property on a private road, unless the owner can document participation in the road association to pay proportionately to the upkeep and maintenance of the road. There was considerable discussion on private road maintenance when the road is used for business travel by business workers and customers.

4. Amend LZO Article 12 Definitions as follows:

- a. Medical Marijuana Home Production – add “licensed by the State of Maine for 30 plants”. No negative comments received.
- b. Medical Marijuana Production Facility – add “a caregiver licensed by the State of Maine for a 500-foot canopy grow”. There was considerable discussion as to the accuracy of the size of the canopy grow, with the need for further review identified.

5. To rezone a section of Huff Road from General Purpose to the Residential Zoning District. Proposed section was read; comments summarized as follows:

- a. A portion of the westerly side of Huff Road is zoned General Purpose while the rest is zoned Residential. Reason for proposed change is to allow a homeowner to split their existing lot into sections for use for children’s homes; existing lot is just less than 10 acres so it cannot be divided into the required 5-acre minimum lots required in the General Purpose zone. Homeowners stated they were previously advised by the Planning Board to request a zoning change for Huff Road.
- b. Some Huff Road landowners have businesses (primarily agricultural) that would be adversely affected by the proposed change to Residential.
- c. One person suggested that the zoning for an existing lot could be changed by action of the Zoning Board of Appeals.

No written comments were submitted to the Planning Board regarding these proposed changes by meeting attendees. **Complete wording of the proposed zoning changes is attached to the minutes of this Public Hearing for the record.**

**ADJOURNMENT**

The Board voted to adjourn the Public Hearing on the proposed LZO changes at 8:00 pm.

**MEETING CALL TO ORDER:** The regular meeting began immediately following the public hearing.

Vice Chair Donald Hernon called the Meeting to order noting attendance of: Paul Boucher, Kelly Demers, Cecile Dupuis, and Joseph Wagner. No record of other meeting attendees is available, except as noted below.

**DISCUSSION:**

**Evolution Site Services** – Map 4 Lot 43-5 – 283 Middle Road, application for a wireless telecommunications tower. Christopher Ciolfi of EVO Site Services provided updated information requested by the PB at a previous meeting on this project, including setbacks and location of other buildings on the site plan.

The Board discussed a letter from A&D Klumb Environmental LLC (ADKE) stating that ADKE has been retained to determine whether the proposed project will adversely impact properties of historical significance (properties listed or eligible for the National Register of Historic Places). Mr. Ciolfi stated that a previous review of the site for a telecommunications tower (tower was not built) showed no impact. PB Secretary will send a copy of the ADKE letter to the Select Board and the Lyman Historical Society for their information.

The Board discussed the schedule for posting the Public Hearing on this application and the lack of PB administrative support needed for continuation of PB review of ongoing applications. Public Hearing was set for 6:45 pm, August 3, 2022.

**Jason Beaulieu – Beaulieu Logging LLC** – Map 7 Lot 103 &107 – 0 Alfred Road, application for wood recycling yard for brush, trees, stumps and making mulch. Applicant was not present, and the Board decided to NOT discuss the project, and to place the project on the agenda for the next PB meeting.

**John Tibbetts email** – proposed zoning change for Huff Road. Email was read and discussed. **A copy of the email is attached to the minutes for the record.** The Board discussed the email and the possible

effects on businesses located on the portion of Huff Road that could be affected by a zoning change from General Purpose to Residential. The Board also discussed the possible use of a landowner's request to the Zoning Board of Appeals for a variance to permit a "spot change" in zoning district for a specific lot.

**Cory Patterson** – Map 3 Lot 54-D – Application for business contractor. The Board signed the approved site plan for this application.

**Minutes of PB Meetings-** No minutes were reviewed.

**Other Items –**

Joe Wagner provided information from a resident regarding gravel/cement trucks using excessive speed on Old North Berwick Road; he will pass this information to the Select Board.

Cecile Dupuis asked about submittal of PB timecards; Don Hernon stated that the Town Treasurer would discuss this item with the Select Board and provide guidance.

The Board discussed sending a memo to the Select Board regarding the immediate need for administrative assistance for the PB to allow continuation of routine functions (agendas, minutes, notice of public hearings and meetings) and the ability of PB to meet requirements for timely consideration of new applications. No action was voted.

There was some discussion concerning the recent passage of the Maine Legislature of LD 2003, Update of Affordable Housing laws. No state guidance has been received on implementation of any new requirements.

**SET AGENDA for PB Public Hearing/Meeting on July 20, 2022:**

**PUBLIC HEARING: 6:45 PM**

- Merry Morning LLC – Proposed professional offices at 382 Goodwins Mills Road Map, Tax Map 11 Lot 122 (former Cousens School property)

**APPOINTMENTS: Immediately following**

- Merry Morning LLC – Proposed professional offices at 382 Goodwins Mills Road Map, Tax Map 11 Lot 122 (former Cousens School property)
- Jason Beaulieu – Beaulieu Logging LLC – Map 7 Lot 103 & 107 – 0 Alfred Road, Lyman – Application for wood recycling yard for brush, trees, stumps and making mulch

**ELECTION & REVIEW:**

- Elect Planning Board Officers for 2022/23 – Chair, Vice-Chair, Secretary
- Review/approve any changes to PB By-Laws (last revised 2/16/22), and PB Mission Statement (last reviewed 7/7/21); forward approved copies to Select Board for information/comment.

**PENDING SITE PLAN REVIEWS**

- EVO Towers & Site Services – Map 4 Lot 43-5 - 283 Middle Road, Lyman – Application for a new transmission/telecommunications tower

**MINUTES:**

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**OLD BUSINESS/MAIL:**

- Discuss public input received at public hearing on July 6, 2022 regarding proposed Lyman Zoning Ordinance amendments and proposed zoning change for Huff Road

**NEW BUSINESS:**

- Discuss ability of Planning Board to continue functions without administrative assistance
- Consider any applications for Planning Board alternate member

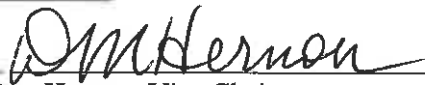
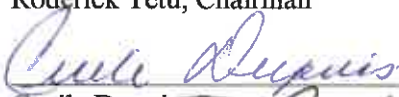
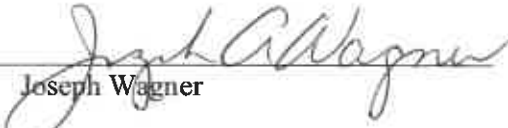


**ADJOURNMENT**

The Board voted to adjourn at 8:50 pm.

**ATTACHMENTS**

1. Wording of the proposed zoning changes.
2. John Tibbetts email dated 6/30/22; Subject: Proposed Zoning Change for Huff Road

APPROVED DATE: 12/7/2022

<u>Absent</u> Roderick Tetu, Chairman	 Don Herson, Vice Chairman
 Cecile Dupuis, Secretary	 Joseph Wagner
 Paul Boucher	 Kelly Demers

**Shall an amendment to the Town of Lyman Zoning Ordinance Article 6, section 6.3.1 Principal buildings and uses be enacted as follows:**

: ~~deleted language struck through.~~ Added language underlined.

**6.3.1 Principal Building and Uses**

- A. In the Residential District, one (1) principal building ~~or one principal use~~ along with one (1) ~~accessory building or use is allowed~~ accessory buildings per lot, with the size of lot to be determined by meeting the lot size, setback and lot coverage requirements of section 6.2.
- B. In the General Purpose District, ~~there shall be no more than one (1) building for each principal use, and no more than two (2) buildings for an accessory use as limited by lot coverage requirements.~~ One (1) principal building along with accessory buildings per lot, meeting the lot size and setback and lot coverage requirements of section 6.2.
- C. The number of buildings and uses in the Commercial/Residential District will be determined by the maximum total lot coverage ~~allowed for the site~~ requirements of section 6.2

**Shall an amendment to the Town of Lyman Zoning Ordinance Article 1, section 1.8.3.F Contract Zoning be enacted as follows:** ~~deleted language struck through.~~ Added language underlined.

**F. Recommendation**

Before forwarding a recommendation of a contract zoning amendment to the Board of Selectmen, the Planning Board shall make a finding on each of the four standards in this subsection. A favorable recommendation to the Board of Selectmen requires a positive finding on all four standards. If the Planning Board makes a negative finding on any of the standards, its recommendation shall be negative. The Planning Board shall base its recommendation on whether the rezoning:

1. ~~Is for land with an unusual nature or location;~~
2. Is consistent with the Comprehensive Plan;
3. Is consistent with, ~~but not limited to,~~ the existing uses and permitted uses within any zoning district; and
4. That the conditions proposed are sufficient to meet the intent of this section.
5. Will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district designation

**Shall an amendment to the Town of Lyman Zoning Ordinance Article 10, section 22 Performance standards for medical marijuana be enacted: ( A copy of the proposed amendment is posted together with this warrant and hereby incorporated into this Warrant by reference. Copies of the text of the proposed amendment are available from the Town Clerk's Office)** ~~deleted language struck through.~~ Added language underlined.

**Section 10.22 Performance Standards for Medical Marijuana**



Purpose: The purpose of this section of the ordinance is to ensure that all cultivation, processing, storage, and distribution of medical marijuana does not have an adverse impact on the health, safety, and general welfare of the residents of the Town of Lyman, while still allowing for treatment and alleviation of a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

Exemptions: As an accessory use, Medical Marijuana Home Production shall be allowed in any qualifying patient's residence or any medical marijuana caregiver's primary year-round residence in every zone following the rules of Home Occupation and Section 10.22. Medical marijuana caregivers not required to register with the State and qualifying patients are not regulated under this section.

Section 10.22-A Medical Marijuana Home Production Facilities are permitted within the caregiver's primary year-round residence as a home occupation subject to the following performance standards, in addition to the requirements of the districts in which the caregiver use is located:

1. The caregiver shall be least twenty-one (21) years of age;
2. The caregiver resides in the dwelling unit as his/her primary year-round residence in conformance with the Maine Medical Use of Marijuana State Administrative Rules or as otherwise specified in Maine statutes and/ or administrative rules;
3. A caregiver who does not own his or her primary residence shall obtain notarized written permission from the property owner prior to cultivating marijuana and shall make the written permission available to the Town.
4. A home production facility is limited to caregivers with a license from the State of Maine for thirty (30) plants.
5. Caregivers shall cultivate medical marijuana within an enclosed, locked building or within an outdoor area which is accessible only by the individual authorized to cultivate the marijuana in conformance with the Maine Medical Use of Marijuana State Administrative Rules or as otherwise specified in the Maine statutes and /or administrative rules.
6. Medical Marijuana shall be distributed to medical marijuana patients within an enclosed building. Drive thru, drive up or window service is prohibited. by delivery or at a dispensary and shall not be sold directly to patients at the home.
7. No exterior evidence of cultivation, including signs, shall be visible from a public way or area. Marijuana plants shall be entirely screened from common visual observation from a public way or area by natural objects, plantings, or a solid fence at least six (6) feet or taller in height, density and depth sufficient to accomplish complete screening of plants from ordinary view. Should the plants grow higher than the screening such they are visible from a public way or area, either the plants shall be cut to not extend higher than the screening or the individual who is authorized to cultivate the marijuana shall install additional screening sufficient to conceal the plants from public view within ten (10) days of notification of the violation by the Code Enforcement Officer.
8. Compliance with health and safety codes. The primary residence, outbuilding, garage, or other structure where marijuana is grown, cultivated, processed, and/or stored shall meet





all applicable requirements of the adopted building code, electric, fire and other health safety and technical codes.

9. Ventilation and odor management. Any primary residence, outbuilding, garage, or other structure used for cultivation shall have proper ventilation to prevent mold damage and to prevent odors or particles from becoming a nuisance to surrounding properties or the public.
10. A complaint of odor shall be investigated by the code enforcement officer. If the code enforcement officer confirms there is odor crossing the property line to abutting properties, the code enforcement officer has authority to require remediation within five days of the confirmed odor complaint. The code enforcement officer has the authority to rescind the permit of a home production that does not comply with the enforcement order. A rescinded permit may only be renewed with approval by the Planning Board.
11. Gases. The use of gas products for extraction processes, including but not limited to carbon dioxide, sulfur dioxide and butane, and ozone generators are prohibited.
12. ~~Dispensing of medical marijuana to medical marijuana patients shall not take place prior to 7:00 a.m. or later than 8:00 p.m. on any day.~~
13. If electric service increases beyond 200 amps and an upgraded transformer is required, that transformer may only service the buildings wired to receive the increased amperage.

**Section 10.22-B Medical Marijuana Production Facility are permitted subject to the following performance standards, in addition to the requirements of the State of Maine;**

1. Medical Marijuana Cooperatives and Medical Marijuana Production Facilities are allowed in every zone.

They shall not be located: on parcels of land with a lot line located within 500 linear feet of any pre-existing public or private school facility, or any pre-existing and licensed day-care center or day-care home, public park, public playground, athletic field, juvenile or adult halfway house, correctional facility, other Marijuana production facilities, substance abuse rehabilitation or treatment center or church. Applications for such public or private schools, child care providers, parks, playgrounds, or churches which are proposed within 500 feet of any existing medical marijuana production facility shall be required to sign a form, which may be obtained from the Code Enforcement Office, which indicates that they are aware that an existing medical marijuana production facility is located within 500 feet of their proposed site.

2. Medical Marijuana Cooperatives and Medical Marijuana Production Facilities are permitted in the Residential and General-Purpose districts on lots of 5 acres or more and any legal lot within the Commercial/ Residential district. In all districts Planning Board approval is required through site plan review process in section 8 of this ordinance.
3. Fire suppression will be required in conformance with the most current version of NFPA 1 Chapter 38 and the current State of Maine adopted version of NEC standards.
4. All Marijuana Cooperatives and Production Facilities shall submit an Odor Control Plan with the site plan application.

Odor Control Plans shall consist of the following:



- a. Specific odor- emitting activity(ies) – This section should describe the odor emitting activities or processes (e.g., cultivation) that take place at the facility, the source(s) (e.g., budding plants) of those odors, and the location(s) from which they are emitted (e.g., flowering room).
  - b. Odor Mitigation Practices – For each odor emitting source/ process outlined in Section 1 of the odor control plan, specify the administrative and engineering controls the facility will implement to control odors.
  - c. The best control technology for marijuana cultivation facilities is carbon filtration.
  - d. The town may use contracted staff and peer review escrow fees to review an odor control plan in agreement with the applicant at the applicant's expense.
5. Parking: The property shall provide parking that meets the requirements of section 10.12 of this ordinance, and such additional parking as may be required by the Planning Board.
6. Security: All growing of medical marijuana within a production facility shall occur inside and only within a completely enclosed structure. A greenhouse is a structure. This does not apply to home growing of medical marijuana. The building shall be constructed with a security system with recordable video surveillance. Exterior lighting must be sufficient to deter nuisance activity and facilitate surveillance. The Planning Board may require a chain link fence or solid fence, six feet in height, surrounding the building (s) and parking area. All security measures shall be consistent with State requirements. Security cameras are also required around the perimeter of the structure
7. Operating hours of the property:
  - a. Dispensing of medical marijuana products and materials shall not take place prior to 7:00 a.m. or later than 8:00 p.m. on any day.
  - b. Deliveries shall not take place prior to 7:00 a.m. or later than 8:00 p.m. on any day.
8. There shall be no dispensing or sales of medical marijuana from a property which is located on a private road; unless the owner can provide documentation of participation in the road association to pay proportionately to the maintenance and upkeep of the road. Otherwise, dispensing of product which is grown on a property located on a private road shall be done from a facility approved as a dispensary.
9. Signs: All signage and advertising for any facility responsible for the cultivation, manufacturing, sale or distribution of marijuana shall comply with all applicable provisions of the land use ordinance. Signs may not contain any visual depiction of marijuana or marijuana paraphernalia. Outdoor displays, window displays, or displays visible from the outside of the building intended to attract attention to or generate interest in the uses on the property shall be prohibited.
10. Drive through, drive up, or window services are prohibited.
11. All activities of dispensaries, cultivation facilities, processing facilities and marijuana establishments shall be conducted indoors.
12. If electric service increases beyond 200 amps and an upgraded transformer is required, that transformer may only service the buildings wired to receive the increased amperage.



13. Annual safety inspections by the Fire Department and Code Enforcement Office shall be conducted. A fee set by the Board of Selectmen will be associated with these inspections.
14. Extraction of marijuana concentrates, such as but not limited to oil, butter, wax or shatter shall be permitted subject to compliance with NFPA (1) Chapter 38 standards and the current version of NEC (National Electric Code) standards.

#### **Section 10.22-C**

**Medical Marijuana Qualifying Patient and/ or Caregiver:** A caregiver who is not required to be registered with the state. This caregiver is limited to serving no more than 2 qualifying patient household members or family members. These caregivers are not allowed to sell marijuana wholesale, organize as a business entity or operate a retail store. This is considered an accessory use to a legally permitted residential dwelling unit.

This does not require a use permit from the town. Any electric wiring requires a permit and must follow all Electric Code requirements and be inspected by the town's electrical inspector.

Shall the town vote to amend Article 12 of the Lyman Zoning Ordinance to change the following definitions:

**Medical Marijuana Home Production:** Growing, cultivating, processing, and/or storing medical marijuana by a registered medical marijuana caregiver licensed by the State of Maine for 30 plants, at his/her primary residence as a home occupation use.

**Medical Marijuana Production Facility:** A building used for cultivating, processing, testing, storing of medical marijuana; and / or distribution by a medical marijuana caregiver at a location which is not the caregiver's primary year-round residence or their qualifying patient's primary year-round residence; and / or a caregiver licensed by the State of Maine for a 500-foot canopy grow . ~~This~~ These shall be considered a commercial use.

**Shall an amendment to the Zoning Map be enacted as follows:** change the zone from General Purpose to Residential from Chantel Lane to South Waterboro Road for a distance westerly of 1,000 feet from Huff Road.



## Admin CEO

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**From:** John Tibbetts <farmajohn54@gmail.com>  
**Sent:** Thursday, June 30, 2022 8:48 AM  
**To:** Admin CEO  
**Cc:** Code Enforcement Officer  
**Subject:** Proposed Zoning Change for Huff Road

Hello,

I'd like to address the proposed zoning change for Huff Road and Swetts Lane. On Swetts Lane there are two established, long-term businesses that could be adversely affected by this change, They are Swetts Well Drilling and Pump Co. and Tibbetts Farm. I realized I'm a selectman and Tibbetts Farm is my son's business. For those two reasons, I will not be speaking at the public hearing. Because of this, I ask you to consider the following:

The farm's location, at the end of a private road, bordered by woods on all sides (he has purchased adjacent land when available to increase his buffer), is ideal for my son's business. He feels that he is able to not impact any neighbors with the smells, noise and traffic of his agricultural business. For the past 5+ years he has leased the Hammond Farm on Old North Berwick Road. That lease is coming to an end in December. He is in the process of building two barns, one for the 60+ beef cattle (cow/calf operation) and one for sheep for the 100+ flock of Katahdin sheep that are currently leased to graze a solar farm. With excavation, building roads, making sure he has proper drainage and manure storage, this is a \$400,000 major project for a small business. The impact of this is every bit of feed has to be trucked in and every bit of manure has to be trucked out year round. He also has a snow plow business with three trucks and a large farm tractor. Swetts Well Drilling also has large trucks using this road year round. This is the reason why Swetts and Tibbetts maintain the private road year round. The proposal to extend the Residential Zone up Swetts Lane 1,000 feet will result in an adverse situation for both businesses by creating the potential for more housing on this private road they maintain. It will also create a situation where both businesses will be forced to do all their trucking through a residential area.

My concern is, in general, after a lifetime of being involved in agriculture, the normal operations of a farm can annoy neighbors. For example, the sounds of calves being separated from their mothers is quite loud and can go on for days, there can be a lot of truck traffic, machinery noise, and the smell of manure. The more people we pass, the higher the potential for complaints. The State of Maine has a strong right to farm law, but it doesn't hold up in residential areas.

Would a better solution be for these people with their 9+ acre lot, who want to add another house, to take it before the ZBA with a possible recommendation from the Planning Board, to get a variance? This solution I think will solve their issue without affecting their neighbors.

Thank you for listening to me.  
Respectfully,  
John Tibbetts

