

# Town of Millbury Board of Appeals

Ken Perro, Chairman  
Daniel Mezynski, Vice Chairman  
Robert Simmarano, Clerk  
Harold Proodian  
Michael Georges  
Alternate member (N/A)



2021 JAN 15 AM 9:35

MUNICIPAL OFFICE BUILDING  
127 ELM STREET  
MILLBURY, MA 01527

## Meeting Minutes Wednesday, December 02, 2020 7:00 pm

Due to the COVID-19 pandemic and associated State of Emergency, the Municipal Office Building was closed to the public. This meeting was being recorded and streamed by Millbury Public Access Cable Television. This meeting was also available through Zoom.us/download. <https://zoom.us/j/87224970857> - ID# 870 4289 1269, One tap mobile; +13126266799,,87224970857# & +19292056099,,87224970857#  
Anyone that was interested in participating through Zoom.us/download was informed to state their name and address before speaking.

**(The Meeting started late (7:20) due to one of the members having difficulties logging into the Zoom hearing)**

**Board Members Present:** Ken Perro (Chairman), Daniel Mezynski (Vice Chairman) Robert Simmarano (Clerk) Harold Proodian and Michael Georges

**Roll Call:** Due to the COVID-19 pandemic and associated State of Emergency this meeting was held through Zoom, for the record a roll call was taken; Ken Perro asked each member to confirm their presence with an (I);

**Ken Perro (confirmed), Daniel Mezynski, Robert Simmarano, Michael Georges and Harold Proodian** all responded with an (I).

**7:20 PM:** – Meeting Minutes from Wednesday, October 28<sup>th</sup>, 2020 and Wednesday, November 18<sup>th</sup>, 2020.

**Ken Perro** entertained a motion for the Meeting Minutes from Wednesday, October 28<sup>th</sup>, 2020:

**Daniel Mezynski made a motion to approve the meeting minutes from Wednesday, October 28<sup>th</sup>, 2020 second by Harold Proodian; (Roll Call: Michael Georges (I), Daniel Mezynski (I), Harold Proodian (I), Robert Simmarano (I),**

**Ken Perro (I) carried unanimously 5 – 0.**

**Ken Perro** entertained a motion for the Meeting Minutes from Wednesday, November 18<sup>th</sup>, 2020:

**Michael Georges made a motion to approve the meeting minutes from Wednesday, November 18<sup>th</sup>, 2020 second by Robert Simmarano; (Roll Call: Michael Georges (I), Daniel Mezynski (I), Harold Proodian (I), Robert Simmarano (I), Ken Perro (I) carried unanimously 5 – 0.**

### **7:35 PM: First Hearing: Richard Stephen Waters for the property located at 121 Millbury Ave, Millbury**

Richard Stephen Waters explained to the board that he is a Psychologist and works full-time elsewhere at another job up in Worcester however he has additional space at the back of his house that was previously operated as a chiropractic waiting room and office area, he would like to have the opportunity to see veterans on contract through the VA for examinations, their compensation, pension and disability examinations so they are basically one off meetings for an hour to an hour and a half; he would be looking to see, on the low end, maybe nobody per week or per month on the high end maybe ten clients per week. Mr. Waters place of residents is also located on said property, 121 Millbury Ave. Steven Rice had owned the property previously built the parking lot and converted the whole first floor into 4 to 5 separate chiropractic offices and had a set up in the back that was like an entryway / waiting area separate, Mr. Waters explained that he converted most of the house back to a house but still has the back area separated as a self contained separate office area. There are no required permits, licensing or state requirements for Mr. Waters to maintain his practice out of 121 Millbury Ave, he did consult a lawyer before he purchased the property, the fact that there was an office/ business there is what appealed to Mr. Waters to the purchase of the property and the opportunity to have his practice. He maybe scheduling multiple patients particularly on a Saturday however during the week on a week day there might be one patient and most likely in the evening when he gets home from work.

Ken Perro asked for clarification from Brian Falk/ Town Counsel as to a specific wording for the variance that Mr. Waters is seeking, Ken Perro read for the record the Zoning Determination letter by the Inspector of Buildings Paul Stringham (please see attached). Brian Falk was in agreement with Paul Stringham's finding that a Use Variance for a Home Occupation similar to

what the previous owner had initially in place. Ken Perro continued to asked the other board members if they had any further questions for Mr. Waters, all board members were in agreement that the information placed before them was sufficient enough to their knowledge.

**7:40 PM:** Ken Perro then entertained a motion to close the public hearing;

**Daniel Mezynski made the motion second by Michael Georges:**

**Roll Call Initiated by Ken Perro (Chairman)**

**Michael Georges (I), Daniel Mezynski (I), Harold Proodian (I), Robert Simmarano (I) and Ken Perro (I)**

**Carried unanimously 5 – 0.**

**Motion:** A Motion was made by; **Michael Georges**, second by **Daniel Mezynski** to approve a **Conditional Use Variance** for a Home Occupation for uses as a Home Office providing personal services of psychotherapy – psychological assessment practice to **Richard Stephen Waters Doctor of Psychology of 121 Millbury Ave., Millbury, MA 01527** for the property located at **121 Millbury Ave., Millbury, Ma, Map# 30, Lot# 24, Residential – I Zoning District Duly Recorded with the Worcester Country Registry of Deeds Book# 58967, Page# 357** with the **Millbury Zoning Bylaws Section 41.**

Richard Stephen Waters Doctor of Psychology can offer psychotherapy – psychological assessment practice at said property on a part-time basis, no more than ten (10) clients per week (possibly 10 hours).

There had previously been a Variance approved for the prior owner to operate a chiropractic office out of the said property on October 16<sup>th</sup>, 1990, Recorded with the Worcester County Registry of Deeds in Book# 7129, Page# 267. The approved Conditional Use Variance to Richard Stephen Waters will expire upon the sale of the property located at 121 Millbury Ave., Map# 30, Lot# 24, Recorded with the Worcester Country Registry of Deeds in Book# 58967 and Page# 357.

The **Conditional Use Variance** has been **Approved** by the **Millbury Board of Appeals** under **MGL Chapter 40a** under the **Millbury Zoning Bylaws** to/for the property at **121 Millbury Ave., Millbury, Ma Map# 30, Lot# 24, Residential – I Zoning District, Duly Recorded in the Worcester County Registry of Deeds in Book# 58967, Page# 357.**

**Roll Call Initiated by Ken Perro (Chairman);**

**Daniel Mezynski (I), Robert Simmarano (I), Harold Proodian (I), Michael Georges (I) and Ken Perro (I);**

**Carried Unanimously 5 – 0.**

**7:50 PM: Second Hearing: GreenCare Therapeutics** for the property located at **12 Latti Farm Road, Millbury** Attorney Joseph Antonellis, office located in Milford, Ma explained to the board that he is representing the applicant GreenCare Therapeutics, Inc., the applicant is the tenant of OCS Millbury, LLC the property is located at 12 Latti Farm Road in Millbury located in the Industrial II District.

The building that is presently on the property is approximately ninety some odd thousand square feet that has been previously approved by way of a Special Permit by the Planning Board as a manufacturing marijuana facility that will have a grow area somewhere in the neighborhood of 90,000 square feet, there will be canopies inside and is not 90,000 square feet of floor space. The Special Permit process took place over a year ago the Special Permit was issued and no appeal was taken probably recorded and there is significant amount of work going on at the property now to create what will be a state of the art sophisticated grow facility in the Commonwealth of Massachusetts, it will be one of the largest facilities in the commonwealth and it will probably be the most modern as it relates to technology.

The applicant is in the process of building a co-generation plant on the property to provide its own energy, all state of the art technology, he forwarded to the planning board with all this information before but he was trying to give the board a little bit of an idea of what's going on in the property.

The application itself is to allow GreenCare to operate a retail marijuana establishment in about 2,000 square feet of the building that will be on the same floor as the grow facility but completely isolated from it. They submitted detailed drawings both of the site and the building to give the board members a better idea of the plan, Atty. Antonellis was unable to share a view of the drawings from his own device so he was hoping that the board members had the plans that were submitted and that they are recorded with the Millbury Town Hall. Atty. Antonellis continued that there will be a 2,000 square foot area that they would like to set aside for both adult use retail and medical sales within the building, while medical sales are most likely allowed in the Industrial-II zone district retail sales of marijuana is not allowed in the Industrial-II zone, therefore they are there partitioning for a use variance which is allowed under section 13.22 under the zoning bylaw, a significant amount of time was spent discussing this with the town building commission prior to submitting the application, his letter is part of the package wherein he directed me to file for the use variance. Atty. Antonellis continued that it was very important for him to point out to the board that while retail sales of marijuana were not necessarily included in the Industrial-II district the recreational medical marijuana district establishment under section 52 of the bylaw specifically has a statement regarding purpose and intent and 52.2 of the bylaw states that the purpose of the section, meaning the whole marijuana section, is to provide for the placement

marijuana establishments and marijuana registered dispensaries in appropriate places under conditions in accordance with provisions of Mass General Laws Chapter 94 G. The second criteria to protect the general health, safety and general well being of Millbury residents while at the same time making the ability to purchase marijuana products available and to minimize the adverse impacts the marijuana establishments might have on residential neighborhoods and other senses of land uses and to regulate the site design security and safety and to deal with the accord of marijuana establishments.

Atty. Antonellis continued to explain that in a Millbury particular bylaw there is only one opportunity for a marijuana establishment other than retail and frankly we got it so in that regard in the designation of the cultivation facility makes us the unique parcel of property in the entire town of Millbury because, again, under the bylaw there is only one other license other than retail allowed we presently have it and so therefore I believe that makes us the most single most unique portion of industrial property in the town of Millbury.

The only access to Latti Farm Road is off of Route 20 and primarily you're entering Lattie Farm from the city of Worcester there is no other direct avenue into the industrial development other than route 20, the facility is away from the general public, the Commonwealth of Massachusetts has strict regulations about making certain the marijuana establishments are not located near schools or places where children would gather, we meet all those criteria's of where we are.

The applicant has a significant investment in this parcel of property they will be adding somewhere in the neighborhood to \$4.5 to \$5 million dollars of equipment inside the building that all of which will be taxed and all personal property taxes and in addition the applicant has entered into two separate agreements already with the town of Millbury and an addendum to the application has been submitted outlining some of the provisions with that agreement and in that agreement the applicant and the town discussed the possibility of retail sales in the town, we knew at the time that a use variance would be required we had conversations about applying for that at the same time but at the time the client got involved in the permitting of the cultivation facility and the manufacturing facility was the primary focus of the getting things done for purposes of financing and moving the project forward with the difficult process that one goes through with the cannabis control commission which is right in the City of Worcester. The applicant is moving along with improvements to start the cultivation but the addition of a retail store in that facility will make a significant difference in the cash flow and economic difference for the client.

While use variances are unique the town of Millbury is one of the few towns in the Commonwealth of Massachusetts that allows for use variances, Atty. Antonellis continued that he does a lot of land use law, many times I make the comparison that if you walk into a courthouse you're dealing with either the law or equity and the law is the strict reading of the rules and regulations that are past by the legislature and the equity is where we get our art and we're allowed to argue that certain things should be worked into to the state of law and therein lies the word variance, so in this particular situation that is before the board while in the adoption for the zoning bylaw you chose to put retail stores in areas that are retail oriented the fact of the matter is when you review your site criteria it seems based on the site criteria the actual best place to have one would be in an industrial zone because in your 52.3 design and site requirements and your zoning bylaw you want to keep marijuana stores, dispensaries and manufacturing facilities a minimum of 500 feet away from any school or play ground we certainly do that in an industrial zone you want to make sure that it is located fully in a building permitted design, not trailers or store fronts, we have plenty of parking available to us, we will not have a drive thru establishment there, we will not have residential units in the building let alone there are no residents in the area, we believe we meet all the citing criteria. As it relates to the specific parcel of property we believe it's unique because we have the licensing for the large growth facility and under those circumstances we make ourselves different from all the other industrials parcels in the town and again I think we fit well within the general context within your bylaw. The word derogation comes up in the zoning bylaw based on the fact that we meet all the citing criteria within your bylaw albeit not in the districts that is intended for retail to be there is certainly no derogation from the bylaw because everything that the bylaw intended to protect and everything that the bylaw intended to give is codified in this application, we're not moving outside the scope of the marijuana bylaw.

The other item Atty. Antonellis needed to explain to the board there is most likely the fact that we will have to go back to the planning board to amend the original special permit that allows for cultivation to add to that special permit an additional use which will be the retail, by granting us a use variance you'll be giving us the first of the permits that we would need to go back to the planning board to amend our existing special permit and at that time add the retail store to the facility, the planning board may have some jurisdiction over parking, we've got hundreds of parking spaces there beyond what we're going to need in fact we were in the process of redoing the parking we'll probably be discussing that with the planning board. With all that said and an apology by Atty. Antonellis for taking up so much time but he wanted to be thorough in the presentation and what his client proposes to do.

Q & A:

Security?

The retail space will have a separate entrance, the regulations relative to security for these facilities are very complex, the Millbury Police Department was very involved at the original stage of the special permit process, they made suggestions and recommendations for security to that building all of which will be incorporated, to the extent that if there needs to be made any modifications for security within the building, we don't think there will be, we showed the display area to the chief when we came around the first time but he will have a second look to make certain that he is comfortable with the change to the interior of the building and the addition of the retail because he may want some additional cameras outside or something to that extent, security on these facilities is state of the art.

On the plans it shows retail show case?

The retail space will be 2,000 square feet, there will be a small component of that space that will be for medical sales only in this dispensary there is an area for medical marijuana patients there they'll have to show a specific card the pricing is different for medical marijuana and there is different pricing for medical than public marijuana, we'll be able to incorporate both those in that 2,000 square feet of space.

The property?

GreenCare Therapeutics has a long term lease with OCS Millbury, LLC whom are the owners of the property and they are in a joint venture with parts of the business, not all parts but some so there is complete control with the applicant and the owner.

Does your client have any other facilities like this that they either own wholly or in part somewhere else in the U.S. or is this a first time venture?

They do not have another business GreenCare Therapeutics is a local business.

GreenCare Therapeutics has a license for medical marijuana sales that they have not put into practice as of yet, it's basically called a floating license they were one of the early applicants in the process when the only opportunity was medical sales, those medical license holders were given priority status in the retail so when the opportunity came to start manufacturing the manufacturing license is practically for all forms, they can manufacture and sell to someone else for either retail or for medical purposes, they're licensed for themselves that they have right now is medical, if the board approves and we go back to the planning board to amend the special permit and then we have to file another amendment with the Cannabis Control Commission for the retail sales for that facility.

Other than the medical and retail sales do you think GreenCare might consider wholesale and if so is it possible GreenCare may consider coming back to the board looking for additional space for the wholesale side?

No, there is too much to the packaging and processing for the wholesale end of the business, people can't come into the facility to buy the wholesale it has to be shipped, the regulations for wholesale are very detailed.

Hours of operation?

Whatever the board decides in the ruling but particularly the same as the other facilities in the area; a 7 day a week operation and closing 8:30 to 9:00 at night and opening 10:00 in the morning.

Ken Perro pointed out that the planning board would be setting the hours of operation.

What do you anticipate for the number of car trips and customers coming in on an average?

Two years ago when a place opened up in Leicester there would be a completely different answer but over the last two years multiple facilities have opened up and the towns Atty. Antonellis has been involved with and working closely with both Framingham and Natick I haven't seen any tremendous influx of traffic the stores in Framingham and Natick are averaging about 20 customers an hour one of the stores there also has the medical sales and has an additional 10 customers per hour.

Are you contemplating to adding additional lighting to the parking lot area towards the retail area?

Absolutely, we're going to have to amend our site plan, we'll have to conform to any lighting requirements that the planning board will be imposing on us, as far as security camera's there are more than you can count. We anticipate that there will be some outdoor improvement.

Beside growing marijuana are they going to get into the other sides of marijuana, cooking and all the other stuff?

Absolutely, part of the interior plans that were approved are going to have a processing room and a bakery they will be making edible products and all sorts of marijuana products in the building including oils and CBD which is the non hallucinogenics or the non-thc portion of it with an assortment of creams and salves, it will be a full scale operation.

When will the facility actually be built?

Construction is going good so far but we don't see any growing until mid to late 2021.

The staff/employees that will be working at GreenCare Therapeutics will they need to be licensed?

All of the employees will be licensed through the Cannabis Control Commission.

Any questions in regards to the town benefitting from the profit end is all in agreement that can be found on public record.

Ken Perro then asked if there was anyone present from the zoom public that had any questions, no further questions.

**8:55 PM:** Ken Perro entertained a motion to close the public hearing;

**Michael Georges made the motion to close second by Daniel Mezynski:**

**Roll Call Initiated by Ken Perro (Chairman);**

**Robert Simmarano (I in favor), Harold Proodian (I in favor), Michael Georges (I in favor), Daniel Mezynski (I in favor), Ken Perro (I in favor);**

**Carried unanimously 5 – 0.**

**9:00 PM:** Discussion and deliberation between board members and professional guidance from Atty. Brian Falk.

**9:15 PM:** Chairman Ken Perro entertained a motion;

A Motion was made by; **Michael Georges**, second by **Harold Proodian** to approve and grant an **Accessory Use Variance to: OSC Millbury, LLC of: 633 3<sup>rd</sup> Ave., 17<sup>th</sup> Floor, New York, NY 10017**

**dba/ GreenCare Therapeutics, Inc of 70 Fargo St., #906, Boston, Ma 02210 for the property located at 12 Latti Farm Road, Millbury, Ma; Map# 14, Lot# 27, Industrial – II Zoning District Duly Recorded with the Worcester County Registry of Deed Book# 62875, Page# 235 in accordance with applicable provisions of MGL Ch. 40a and Millbury Zoning Bylaws Section 13.22 .**

**Motion:** A motion was made to **Grant an Accessory Use Variance to;**

**OSC Millbury, LLC of: 633 3<sup>rd</sup> Ave., 17<sup>th</sup> Floor, New York, NY 10017**

**(dba/ GreenCare Therapeutics, Inc of 70 Fargo St., #906, Boston, Ma)**

**For the property located at: 12 Latti Farm Road, Millbury, Ma, Map# 14, Lot# 27, Industrial – II Zoning District Duly Recorded at the Worcester County Registry of Deeds, Book# 62875, Page# 235;**

**Said application will be granted to use a portion, (2,000 sq.-ft.) of the (98,324 sq.-ft.) building to provide a retail and wholesale component for the use of recreational and medical cannabis products to its approved cannabis cultivation and manufacturing facility. This specific use is not a permitted use nor a permitted accessory use within the Industrial – II Zoning District under Millbury Zoning Bylaws Section 13.22 however after specific review and findings the granting of said use is not in derogation of the Millbury Zoning Bylaws and will not have a negative impact on the Town of Millbury.**

**This final granting is subject to review by the Millbury Planning Board as required and review and approval by the Millbury Chief of Police and authorized in Town Council to draft said decision subject to review by the Chair of the Millbury Zoning Board of Appeals, (Please see attached the final Granting and Decision).**

**This Accessory Use Variance has been Approved by the Millbury Board of Appeals under MGL Chapter 40a under the Millbury Zoning Bylaws to/for the property at 12 Latti Farm Road, Millbury, Ma Map# 14, Lot# 27, Industrial – II Zoning District, Duly Recorded in the Worcester County Registry of Deeds in Book# 62875, Page# 235.**

**Roll Call Initiated by Chairman Ken Perro;**

**Robert Simmarano (Clerk) (I), Daniel Mezynski (Vice Chairman) (I), Michael Georges (I), Harold Proodian (I), Ken Perro (Chairman) (I) carried unanimously 5 – 0.**

**9:30 PM:** Adjournment.

**Ken Perro entertained a motion to adjourn:**

**Daniel Mezynski made a motion to adjourn second by Robert Simmarano;**

**Roll Call Initiated by Ken Perro (Chairman);**

**Michael Georges (I), Harold Proodian (I), Robert Simmarano (I), Daniel Mezynski (I) and Ken Perro (I);**

**Carried unanimously 5 – 0.**

**Next scheduled meetings:**

**Wednesday, January 13<sup>th</sup>, 2021 @ 7:00pm**

Respectfully submitted by Nancy Young and submitted to Town Clerk.

**Town of Millbury  
Board of Appeals**

Ken Perro, Chairman  
Daniel Mezynski, Vice Chairman  
Robert Simmarano, Clerk  
Harold Proodian  
Michael Georges  
Alternate member



MUNICIPAL OFFICE BUILDING  
127 ELM STREET  
MILLBURY, MA 01527

Due to the COVID-19 pandemic and associated State of Emergency, the Municipal Office Building was closed to the public.

This meeting was recorded and streamed by Millbury Public Access Cable Television.

**Board of Appeals Approval Signatures**

**(VOTED ON WEDNESDAY, JANUARY 13<sup>TH</sup>, 2021)**

**Approval Electronic Signatures for the Meeting Minutes from Wednesday, December 2<sup>nd</sup>, 2020**

Ken Perro, Chairman

(FAVOR / OPPOSED / ABSTAIN)

Daniel Mezynski, Vice Chairman

(FAVOR / OPPOSED / ABSTAIN)

Robert Simmarano, Clerk

(FAVOR / OPPOSED / ABSTAIN)

Harold Proodian

(FAVOR / OPPOSED / ABSTAIN)

Michael Georges

(FAVOR / OPPOSED / ABSTAIN)

Alternate

(FAVOR / OPPOSED / ABSTAIN)

**WEDNESDAY, JANUARY 13, 2021**



Department of  
Building & Inspections  
Paul F. Stringham  
Inspector of Buildings

## TOWN OF MILLBURY

MUNICIPAL OFFICE BUILDING • 127 ELM STREET • MILLBURY, MA 01527-2632 • TEL. 508 / 865-0438 • FAX. 508 / 865-0857

DATE: 7-22-19  
To: R. Stephen Waters  
c/o 121 Millbury Avenue, Millbury Ma. M30 L-24  
From: Paul F. Stringham, Inspector of Buildings  
RE: Zoning Determination  
CC: file

After conducting a review of the permit history for this property, it appears the property was granted a conditional use variance to allow the prior owner to live in his home and operate his Chiropractor personal services office, and construct a small parking lot. This typically could be considered a Home Occupation. The variance was conditional and lapsed upon the sale of the property. (See attached)

In order to reactivate the same exact rights it will be necessary to petition for a new use variance in accordance with Millbury Zoning Bylaws Section 13.22. The property is zoned R-1 Residential. Home Occupations are allowed under Section 41 in this district but normally for uses that the owner performs inside their home, using less than 25% of the floor area and the customers do not come to the property. Obtaining a variance from provisions of Section 41 to allow for a home office use on this property providing personal service on the premises of your property. The Board of Appeals is empowered under MGL Chapter 40a and Millbury Zoning Bylaws to issue such zoning relief after conducting a public hearing of your petition for a Variance. And if successful and no one files an appeal, you will have to file the decision in the Worcester Registry of Deeds.

For the record sufficient parking exist on the property Site Plan Review from the Planning Board under Section 12.4 is not required.

Respectfully,

Paul F. Stringham  
Inspector of Buildings